INTERNATIONAL COURT OF JUSTICE

Yearbook
1997-1998

No. 52

I.C.J. - THE HAGUE - 1998

YEARBOOK

1997-1998

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In March 1947 the International Court of Justice instructed the Registrar to publish a *Yearbook* providing general information concerning its organization, jurisdiction, activities and administration.

The present volume – fifty-second of the series – covers the period from 1 August 1997 to 31 July 1998.

The *Yearbook* is prepared by the Registry and in no way involves the responsibility of the Court; in particular, the summaries of judgments, advisory opinions and orders contained in Chapter VI cannot be quoted against the actual texts of those judgments, advisory opinions and orders and do not constitute an interpretation of them.

Eduardo VALENCIA-OSPINA,
Registrar of the Court.

TABLE OF CONTENTS

Page

Introduction

I. Basic texts 1

1. Charter of the United Nations 1
2. Statute of the International Court of Justice 1

(a) Text of the Statute 1
(b) States parties to the Statute 1
(c) Amendments to the Statute 2

3. Rules of Court 2

II. Chronological survey 3

(a) Contentious 3
(b) Advisory 7

Chapter I. Organization of the Court

I. Members of the Court 8

1. Composition of the Court 8
2. Former Presidents and Vice-Presidents and former Members of the Court 9

II. Judges *ad hoc* 12
III. Chambers 16

1. Chamber of Summary Procedure 16
2. Chambers provided for in Article 26, paragraph 1, of the Statute 17
3. Chambers formed under Article 26, paragraph 2, of the Statute 17
4. Provisions in the Rules relating to chambers 18

IV. Assessors 18
V. The Registrar 18
VI. Privileges and immunities 19

Chapter II. Biographies of judges

I. Members of the Court on 31 July 1998 20
II. Judges *ad hoc* 20

Page

Chapter III. Jurisdiction of the Court
I. Jurisdiction in contentious cases 63
1. States entitled to appear before the Court 63
(a) States Members of the United Nations 63
(b) States, not members of the United Nations, parties to the Statute 67
(c) States, not parties to the Statute, to which the Court may be open 69
2. Basis of the Court's jurisdiction 70
(a) Special agreement 71
(b) Cases provided for in treaties and conventions . . 71
(c) Compulsory jurisdiction in legal disputes 72
(d) The Court itself decides any question as to its jurisdiction 73
(e) Interpretation of a judgment 74
(f) Revision of a judgment 74
II. Advisory jurisdiction 74

Chapter IV. Texts governing the jurisdiction of the Court
I. Instruments governing the relationship of organs of the United Nations and international organizations with the Court 77
1. United Nations 77
2. All specialized agencies 78
3. International Labour Organisation 79
4. Food and Agriculture Organization of the United Nations 79
5. United Nations Educational, Scientific and Cultural Organization 79
6. World Health Organization 80
7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association 80
8. International Monetary Fund 81
9. International Civil Aviation Organization 81
10. International Telecommunication Union 81
11. World Meteorological Organization 81
12. International Maritime Organization 81
13. World Intellectual Property Organization 82
14. International Fund for Agricultural Development . . 82
15. United Nations Industrial Development Organization . 82
16. International Atomic Energy Agency 82
II. Declarations recognizing as compulsory the jurisdiction of the Court 83

Page
III. Chronological list of other instruments governing the jurisdiction of the Court 125

Chapter V. Functioning and practice of the Court
I. Seat 143
II. Administration 143
1. The Presidency and the Committees of the Court . . . 143
2. The Registry 144
(a) The Registrar and the Deputy-Registrar 144
(b) Departments of the Registry 145
(c) Staff Regulations for the Registry 148
(d) Privileges and immunities 148
3. Relations with the public 149
(a) Correspondence 149
(b) Access to the Court's library and archives . . . 149
(c) Information 150
III. Practice in regard to procedure 151
1. General 151
(a) Official languages 151
(b) Official communications 152
(c) Minutes 152
(d) General List 152
2. Procedure in contentious cases 152
(a) Institution of proceedings and appointment of agents 152
(b) Written proceedings 153
(c) Oral proceedings 154
(d) Deliberations 156
(e) Judgment 156
(f) Expenses and costs 156
3. Occasional rules in contentious cases 157
(a) Provisional measures 157
(b) Joinder of proceedings 157
(c) Preliminary objections 158
(d) Intervention, presentation of information 159
(e) Default, settlement, discontinuance 159
(f) Execution, interpretation or revision of judgments . 160
(g) Special reference to the Court 160
4. Procedure in advisory cases 160
(a) Request 161
(b) Written and oral proceedings 161
(c) Deliberations 161
(d) Advisory opinion 161

Page

IV. Occasional functions entrusted to the President of the International Court of Justice 162

1. International instruments providing for appointment of arbitrators, etc. 162
2. Other requests for appointment of arbitrators 162
3. Other appointments 162

Chapter VI. Work of the Court in 1997-1998

I. Cases before the Court 165

1. *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* 165
2, 3. *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)* 169
4. *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* 190
5. *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)* 193
6. *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* . . 203
7. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* 222
8. *Fisheries Jurisdiction (Spain* v. *Canada)* 242
9. *Kasikili/Sedudu Island (Botswana/Namibia)* 245
10. *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* 246

II. Application of the Statute and Rules of Court 249

1. Organization of the Court 249

(a) The Presidency 249
(b) Judges *ad hoc* 250
(c) Chamber of Summary Procedure 252

2. Jurisdiction of the Court *(lato sensu)* 252

(a) General 252
(b) Declarations recognizing as compulsory the jurisdiction of the Court 253
(c) Preliminary objections 254

Page
3. Contentious procedure 256
  (a) Institution of proceedings 256
  (b) Fixing of time-limits 257
  (c) Filing of pleadings 258
  (d) Presentation of new documents 258
  (e) Oral proceedings 258
  (f) Accessibility of pleadings to the public 259
  (g) Questions by judges 259
  (h) Final submissions 260
  (i) Provisional measures 260
  (j) Counter-claims 261
  (k) Separate and dissenting opinions and declarations . 264
  (l) Reading of the decision of the Court 265
    (i) Judgments 265
    (ii) Order 265
4. Staff regulation for the Registry 265
III. Visits 272
  A. Visit by the Deputy Secretary-General of the United Nations 272
  B. Visits of Heads of State 272
IV. Report and representation of the Court at the General Assembly 273
V. Applications from private persons 274
Appendix 275
  1. Response of the International Court of Justice to General Assembly resolution 52/161 of 15 December 1997 . . . 275
  2. Action pursuant to an advisory opinion of the Court . . 286
  3. The role and functioning of the Court 288
    Address by the President of the Court to the General Assembly, 27 October 1997 288
    Address by the President of the Court to the Sixth Committee of the General Assembly, 30 October 1997 . 295

Chapter VII. Publications of the Court

I. General 301
  1. Series published by the International Court of Justice . 301
    (a) *Reports of Judgments, Advisory Opinions and Orders* 301
    (b) *Pleadings, Oral Arguments, Documents* 302
    (c) *Acts and Documents concerning the Organization of the Court* 302
    (d) *Yearbook* 303
    (e) *Bibliography of the International Court of Justice* . 303

Page

2. Dissemination of the publications of the International Court of Justice 303
3. Publications of the Permanent Court of International Justice 304

II. Official citation of Judgments, Advisory Opinions and Orders 304
1. Permanent Court of International Justice 305
2. International Court of Justice 309

III. Abbreviated references to Pleadings, Oral Arguments, Documents 320
1. Permanent Court of International Justice 320
2. International Court of Justice 324

Chapter VIII. Finances of the Court

I. Financial regulations 331
1. General regulations 331
(a) Method of covering expenditure 331
(b) Drafting of the budget 332
(c) Financing of appropriations and accounts . . . 332
2. Salaries and expenses of judges 332
(a) Emoluments 332
(b) Pensions 333
(c) Conditions of service 334
(d) Travelling expenses 335
3. Salaries, allowances and expenses of the Registrar and officials of the Registry 335
(a) Emoluments 335
(b) Pensions 336
(c) Travelling expenses 336
4. Common services 336

II. Budget for the biennium 1998-1999 337
1. Ordinary expenses 337
2. Unforeseen and extraordinary expenses 337

III. Accounts for the biennium 1996-1997 338
1. Budget accounts 338
2. Audit of accounts 338

INTRODUCTION

The *International Court of Justice*, which has its seat in The Hague, is the principal judicial organ of the United Nations.

It had as its predecessor the *Permanent Court of International Justice*, which was instituted by the League of Nations in 1920 and was dissolved in 1946.

I. BASIC TEXTS

The constitutional texts of the Court are the Charter of the United Nations and the Statute of the Court. Other basic texts are the Rules of Court and the resolution concerning the internal judicial practice of the Court.

1. Charter of the United Nations

The International Court of Justice was brought into being by the Charter of the United Nations, signed at San Francisco on 26 June 1945. The Charter deals with the Court in Article 7, paragraph 1, Article 36, paragraph 3, and Articles 92-96, which form Chapter XIV.

2. Statute of the International Court of Justice

(a) *Text of the Statute*

By virtue of Article 92 of the Charter of the United Nations, the Statute of the Court is annexed to the Charter, of which it forms an integral part. The text of the Statute, which also was signed at San Francisco on 26 June 1945, is published by the Court in the volume *I.C.J. Acts and Documents No. 5*, pages 60-89.

The above-mentioned Article indicates that the Statute is based upon that of the *Permanent Court of International Justice*. The modifications are few in number, most of them being formal adaptations designed to take account of the replacement of the League of Nations by the United Nations. The *I.C.J. Yearbook 1946-1947*, pages 101-102, gives a list of the articles modified.

(b) *States parties to the Statute*

Article 93 of the Charter provides:

> "1. All Members of the United Nations are *ipso facto* parties to the Statute of the International Court of Justice.
>
> 2. A State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice

> on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council."

The States parties to the Statute are listed in Chapter III, pages 63-69, of this *Yearbook*.

(c) *Amendments to the Statute*

According to Article 69 of the Statute, amendments to that instrument may be effected by the same procedure as is provided for amendments to the Charter. This procedure is set out in Chapter XVIII of the Charter (Arts. 108-109). Article 108 provides that amendments to the Charter "shall come into force for all Members of the United Nations when they have been adopted by a vote of two-thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two-thirds of the Members of the United Nations, including all the permanent members of the Security Council".

Article 69 of the Statute also specifies that provisions concerning the participation in the amendment procedure of States which are parties to the Statute but are not members of the United Nations may be adopted by the General Assembly upon recommendation of the Security Council (see Chap. III, pp. 68-69, below).

Furthermore, Article 70 of the Statute empowers the Court to propose of its own accord such amendments to the Statute as it may deem necessary.

No amendments have so far been made to the Statute.

3. *Rules of Court*

Article 30 of the Statute provides that "the Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure."

Rules of Court were adopted on 6 May 1946, and were published by the Court in the volume *I.C.J. Acts and Documents No. 1*, second edition, pages 54-83. They were based on the latest text of the Rules of the *Permanent Court*, that of 11 March 1936, with certain changes, formal and substantive, a list of which was given in *I.C.J. Yearbook 1946-1947*, pages 102-103.

From 1946 to 1972 the Rules remained unchanged, although from time to time the Court, which keeps its procedure under constant review, considered their modification. In 1967 a revision was undertaken (see *I.C.J. Yearbook 1967-1968*, p. 87; *I.C.J. Yearbook 1969-1970*, p. 114; *I.C.J. Yearbook 1970-1971*, pp. 109-110) and on 10 May 1972 the Court adopted some partial amendments of immediate interest. Amended and partly renumbered Rules of Court (see *I.C.J. Acts and Documents No. 3*, pp. 92-149) thus came into force on 1 September 1972. A Note by the Registry (*Background Note IV*, or see *I.C.J. Yearbook 1971-1972*, pp. 3-11) indicates the changes and gives a table of concordance between the 1946 Rules and those of 1972.

The work of revision was subsequently resumed, and culminated on 14 April 1978 in the adoption of a new set of Rules. These Rules of Court came into force on 1 July 1978 and as from that date replaced the 1972 amended version of those adopted in 1946. They were first published in *I.C.J. Acts and Documents No. 4* concurrently with the issue of *I.C.J. Background Note V*, entitled "Note by the Registry on the Revised Rules of Court (1978)", which includes a table of concordance as between the respective articles of the new set and its predecessor. For a rather more detailed account of the background the reader is referred to pages 111-119 of *I.C.J. Yearbook 1977-1978*, which feature an analytical table enabling the structure of the new set of Rules to be compared with that of the 1946 and 1972 sets, and a table of concordance as between the specific articles of the 1978, 1972 and 1946 Rules of Court. The current publication containing the 1978 Rules of Court is *I.C.J. Acts and Documents No. 5* (pp. 91-161).

II. CHRONOLOGICAL SURVEY

The Charter of the United Nations and the Statute of the Court entered into force on 24 October 1945.

After the election of its Members, on 6 February 1946, the Court met for the first time in The Hague on 1 April of the same year.

The first case entered in the General List of the Court *(Corfu Channel (United Kingdom* v. *Albania))* was submitted on 22 May 1947.

Between then and 31 July 1998 the Court has had to deal with a total of 98 cases, i.e., 76 contentious cases and 22 advisory cases, as listed below[1]. In those cases it gave 66 judgments, of which 40 were on the merits, and 23 advisory opinions. Of the 310 orders made therein, 234 related solely to the fixing or extending of time-limits, while 278 orders related to contentious cases and 32 to advisory cases.

Title	*Dates*
(a) Contentious[2]	
Corfu Channel (United Kingdom v. *Albania)*	1947-1949
Fisheries (United Kingdom v. *Norway)*	1949-1951
Protection of French Nationals and Protected Persons in Egypt (France v. *Egypt)*	1949-1950
Asylum (Colombia/Peru)	1949-1950
Rights of Nationals of the United States of America in Morocco (France v. *United States of America)*	1950-1952

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[1] Factual information (dates, etc.) regarding the course of the proceedings in each case is given in *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice* (see p. 150, below).

[2] In the case of proceedings instituted by means of a special agreement the names of the parties are separated by an oblique stroke.

Title	*Dates*
Request for Interpretation of the Judgment of 20 November 1950 in the Asylum case (Colombia v. *Peru)*	1950
Haya de la Torre (Colombia v. *Peru)*	1950-1951
Ambatielos (Greece v. *United Kingdom)*	1951-1953
Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*	1951-1952
Minquiers and Ecrehos (France/United Kingdom)	1951-1953
Nottebohm (Liechtenstein v. *Guatemala)*	1951-1955
Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*	1953-1954
Electricité de Beyrouth Company (France v. *Lebanon)*	1953-1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *Hungary)*	1954
Treatment in Hungary of Aircraft and Crew of United States of America (United States of America v. *USSR)*	1954
Aerial Incident of 10 March 1953 (United States of America v. *Czechoslovakia)*	1955-1956
Antarctica (United Kingdom v. *Argentina)*	1955-1956
Antarctica (United Kingdom v. *Chile)*	1955-1956
Aerial Incident of 7 October 1952 (United States of America v. *USSR)*	1955-1956
Certain Norwegian Loans (France v. *Norway)*	1955-1957
Right of Passage over Indian Territory (Portugal v. *India)*	1955-1960
Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*	1957-1958
Interhandel (Switzerland v. *United States of America)*	1957-1959
Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*	1957-1959
Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*	1957-1960
Aerial Incident of 27 July 1955 (United Kingdom v. *Bulgaria)*	1957-1959
Sovereignty over Certain Frontier Land (Belgium/Netherlands)	1957-1959
Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*	1958-1960
Aerial Incident of 4 September 1954 (United States of America v. *USSR)*	1958
Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*	1958-1961

Title	*Dates*
Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France v. *Lebanon)*	1959-1960
Aerial Incident of 7 November 1954 (United States of America v. *USSR)*	1959
Temple of Preah Vihear (Cambodia v. *Thailand)*	1959-1962
South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa)*	1960-1966
Northern Cameroons (Cameroon v. *United Kingdom)*	1961-1963
Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain)*	1962-1970
North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)	1967-1969
Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan)*	1971-1972
Fisheries Jurisdiction (United Kingdom v. *Iceland)*	1972-1974
Fisheries Jurisdiction (Federal Republic of Germany v. *Iceland)*	1972-1974
Nuclear Tests (Australia v. *France)*	1973-1974
Nuclear Tests (New Zealand v. *France)*	1973-1974
Trial of Pakistani Prisoners of War (Pakistan v. *India)*	1973
Aegean Sea Continental Shelf (Greece v. *Turkey)*	1976-1978
Continental Shelf (Tunisia/Libyan Arab Jamahiriya)	1978-1982
United States Diplomatic and Consular Staff in Tehran (United States of America v. *Iran)*	1979-1981
Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) [case referred to a Chamber]	1981-1984
Continental Shelf (Libyan Arab Jamahiriya/Malta)	1982-1985
Frontier Dispute (Burkina Faso/Republic of Mali) [case referred to a Chamber]	1983-1986
Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America)*	1984-1991
Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya)*	1984-1985
Border and Transborder Armed Actions (Nicaragua v. *Costa Rica)*	1986-1987
Border and Transborder Armed Actions (Nicaragua v. *Honduras)*	1986-1992

Title	*Dates*
Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) [case referred to a Chamber][1]	1986-1992
Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)* [case referred to a Chamber]	1987-1989
Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway)*	1988-1993
Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America)*	1989-1996
Certain Phosphate Lands in Nauru (Nauru v. *Australia)*	1989-1993
Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal)*	1989-1991
Territorial Dispute (Libyan Arab Jamahiriya/Chad)	1990-1994
East Timor (Portugal v. *Australia)*	1991-1995
Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau v. *Senegal)*	1991-1995
Passage through the Great Belt (Finland v. *Denmark)*	1991-1992
Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*	1991-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom)*	1992-
Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America)*	1992-
Oil Platforms (Islamic Republic of Iran v. *United States of America)*	1992-
Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia)*	1993-
Gabčíkovo-Nagymaros Project (Hungary/Slovakia)	1993-
Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria)*	1994-
Fisheries Jurisdiction (Spain v. *Canada)*	1995-
Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand v. France) *Case*	1995
Kasikili/Sedudu Island (Botswana/Namibia)	1996-
Vienna Convention on Consular Relations (Paraguay v. *United States of America)*	1998-

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[1] The intervention of Nicaragua was admitted on 13 September 1990 (see *I.C.J. Yearbook 1990-1991*, pp. 160-174).

Title	*Dates*
(b) Advisory	
Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter)	1947-1948
Reparation for Injuries Suffered in the Service of the United Nations	1948-1949
Interpretation of Peace Treaties with Bulgaria, Hungary and Romania	1949-1950
Competence of the General Assembly for the Admission of a State to the United Nations	1949-1950
International Status of South West Africa	1949-1950
Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide	1950-1951
Effect of Awards of Compensation Made by the United Nations Administrative Tribunal	1953-1954
Voting Procedure on Questions relating to Reports and Petitions concerning the Territory of South West Africa	1954-1955
Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco	1955-1956
Admissibility of Hearings of Petitioners by the Committee on South West Africa	1955-1956
Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization	1959-1960
Certain Expenses of the United Nations (Article 17, paragraph 2, of the Charter)	1961-1962
Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)	1970-1971
Application for Review of Judgement No. 158 of the United Nations Administrative Tribunal	1972-1973
Western Sahara	1974-1975
Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt	1980
Application for Review of Judgement No. 273 of the United Nations Administrative Tribunal	1981-1982
Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal	1984-1987
Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947	1988
Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations	1989
Legality of the Use by a State of Nuclear Weapons in Armed Conflict	1993-1996
Legality of the Threat or Use of Nuclear Weapons	1994-1996

CHAPTER I

ORGANIZATION OF THE COURT

The organization of the International Court of Justice is governed by Articles 2-33 of the Statute of the Court and by Articles 1-18 and 32-37 of the Rules of Court.

I. MEMBERS OF THE COURT

1. Composition of the Court[1]

The Court consists of 15 Members (Statute, Art. 3, para. 1).

On 31 July 1998 the composition of the Court was as follows:

Order of precedence	*Country*	*Date of expiry of term of office*
President S. M. Schwebel	United States	5 February 2006[2]
Vice-President C. G. Weeramantry	Sri Lanka	5 February 2000[2]
Judges S. Oda	Japan	5 February 2003
M. Bedjaoui	Algeria	5 February 2006
G. Guillaume	France	5 February 2000
R. Ranjeva	Madagascar	5 February 2000
G. Herczegh	Hungary	5 February 2003
Shi Jiuyong	China	5 February 2003
C.-A. Fleischhauer	Germany	5 February 2003
A. G. Koroma	Sierra Leone	5 February 2003
V. S. Vereshchetin	Russian Federation	5 February 2006
R. Higgins	United Kingdom	5 February 2000
G. Parra-Aranguren	Venezuela	5 February 2000
P. H. Kooijmans	Netherlands	5 February 2006
F. Rezek	Brazil	5 February 2006

The Members of the Court are elected for nine years, one-third of the total number of judges being elected every three years; they may be re-elected (Statute, Art. 13). In the event of a vacancy, an election is held and the new judge holds office for the remainder of his predecessor's term (Statute, Arts. 14 and 15). Though replaced, Members of the Court finish any cases they have begun (Statute, Art. 13, para. 3).

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[1] For the composition of chambers, see pp. 16-18, below.

[2] The terms of office of Judges Schwebel and Weeramantry as President and Vice-President respectively expire in 2000.

As required by Article 7 of the Statute, the Secretary-General of the United Nations prepares for each election a list of the persons nominated in accordance with Articles 5 and 6. The election is held by the General Assembly and the Security Council of the United Nations, proceeding independently of each other and simultaneously (Statute, Arts. 8-12). The States parties to the Statute of the Court which are not members of the United Nations take part in the election by the General Assembly in the same manner as Members of the United Nations (General Assembly resolution 264 (III) of 8 October 1948; see Chap. III, p. 68, below).

Members of the Court elected during the same session of the General Assembly whose terms of office begin on the same date take precedence according to seniority of age; Members elected at a previous session take precedence; in the event of immediate re-election a Member retains his former precedence (Rules, Art. 3, paras. 2-4).

The Court elects its President and Vice-President; they are both elected for three years and take precedence over the other judges (Statute, Art. 21, para. 1; Rules, Art. 3, para. 5, Arts. 10-14, Art. 18, para. 2, and Art. 32).

2. Former Presidents and Vice-Presidents and Former Members of the Court

The following judges served as President or Vice-President before the present holders of those offices:

1946-1949, J. G. Guerrero and J. Basdevant;

1949-1952, J. Basdevant and J. G. Guerrero[1];

1952-1955, Sir Arnold McNair and J. G. Guerrero[1];

1955-1958, G. H. Hackworth and A. H. Badawi[2];

1958-1961, H. Klaestad and Sir Muhammad Zafrulla Khan;

1961-1964, B. Winiarski and R. J. Alfaro;

1964-1967, Sir Percy Spender and V. K. Wellington Koo;

1967-1970, J. L. Bustamante y Rivero and V. M. Koretsky;

---

[1] While he was Vice-President of the Court, Judge Guerrero acted as President, by virtue of Article 13, paragraphs 1 and 2, of the 1946 Rules, in the following cases: *Corfu Channel (United Kingdom* v. *Albania); Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Minquiers and Ecrehos (France/United Kingdom); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America).*

[2] While he was Vice-President of the Court, Judge Badawi acted as President, by virtue of Article 13, paragraph 1, of the 1946 Rules, in the cases concerning *Interhandel (Switzerland* v. *United States of America), Interim Protection*, and *Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria).*

1970-1973, Sir Muhammad Zafrulla Khan and F. Ammoun[1];
1973-1976, M. Lachs and F. Ammoun[1];
1976-1979, E. Jiménez de Aréchaga and Nagendra Singh;
1979-1982, Sir Humphrey Waldock[2] and T. O. Elias[3];
1982-1985, T. O. Elias[4] and J. Sette-Camara;
1985-1988, Nagendra Singh and G. Ladreit de Lacharrière[5];
1988-1991, J. M. Ruda and K. Mbaye;
1991-1994, Sir Robert Jennings[6] and S. Oda[6];
1994-1997, M. Bedjaoui and S. M. Schwebel.

Apart from the present judges, the following have been Members of the Court (the names of those who have died are preceded by an asterisk):

	Country	*Period of Office*
* R. Ago	Italy	1979-1995
* A. Aguilar-Mawdsley	Venezuela	1991-1995
Prince B. A. Ajibola	Nigeria	1991-1994
* R. J. Alfaro	Panama	1959-1964
* A. Alvarez	Chile	1946-1955
* F. Ammoun	Lebanon	1965-1976
* E. C. Armand-Ugon	Uruguay	1952-1961
* Ph. Azevedo	Brazil	1946-1951
* A. H. Badawi	Egypt	1946-1965

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[1] While he was Vice-President of the Court, Judge Ammoun acted as President, by virtue of Article 11 and Article 13, paragraph 1, of the then Rules of Court, in *Appeal Relating to the Jurisdiction of the ICAO Council*, *Nuclear Tests (Australia* v. *France), Interim Protection*, and *Nuclear Tests (New Zealand* v. *France), Interim Protection*.

[2] Sir Humphrey Waldock died on 15 August 1981. The functions of the Presidency were thereafter exercised by T. O. Elias as Acting President, by virtue of Article 13, paragraph 1, and Article 14 of the 1978 Rules of Court.

[3] Vice-President Elias was for a time Acting President in *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and in the proceedings relating to the Orders made on 20 January and 1 February 1982 in *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*.

[4] Judge Elias continued to act as President in *Continental Shelf (Libyan Arab Jamahiriya/Malta)* after 5 February 1985, by virtue of Article 32, paragraph 2, of the 1978 Rules of Court.

[5] Judge Ladreit de Lacharrière died on 10 March 1987. On 6 May 1987 the Court elected Judge Mbaye to be its Vice-President for the remainder of his predecessor's term.

[6] While he was President of the Court, Sir Robert Jennings, being a national of one of the Parties, did not, in accordance with Article 32 of the Rules of Court, preside in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*. Vice-President Oda exercised the functions of the Presidency in that case, as well as in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*. (See *I.C.J. Yearbook 1991-1992*, p. 198.)

* J. Basdevant	France	1946-1964
* R. R. Baxter	United States	1979-1980
* C. Bengzon	Philippines	1967-1976
* J. L. Bustamante y Rivero	Peru	1961-1970
* L. F. Carneiro	Brazil	1951-1955
* F. de Castro	Spain	1970-1979
* R. Córdova	Mexico	1955-1964
* Ch. De Visscher	Belgium	1946-1952
* H. C. Dillard	United States	1970-1979
* A. El-Erian	Egypt	1979-1981
A. El-Khani	Syria	1981-1985
* T. O. Elias	Nigeria	1976-1991
J. Evensen	Norway	1985-1994
* I. Fabela	Mexico	1946-1952
L. Ferrari Bravo	Italy	1995-1997
* Sir Gerald Fitzmaurice	United Kingdom	1960-1973
* I. Forster	Senegal	1964-1982
* S. A. Golunsky	USSR	1952-1953
A. Gros	France	1964-1984
* J. G. Guerrero	El Salvador	1946-1958
* G. H. Hackworth	United States	1946-1961
* Hsu Mo	China	1946-1956
* L. Ignacio-Pinto	Benin	1970-1979
Sir Robert Yewdall Jennings	United Kingdom	1982-1995
* P. C. Jessup	United States	1961-1970
* E. Jiménez de Aréchaga	Uruguay	1970-1979
* H. Klaestad	Norway	1946-1961
* F. I. Kojevnikov	USSR	1953-1961
* V. M. Koretsky	USSR	1961-1970
* S. B. Krylov	USSR	1946-1952
* M. Lachs	Poland	1967-1993
* G. Ladreit de Lacharrière	France	1982-1987
* Sir Hersch Lauterpacht	United Kingdom	1955-1960
* Sir Arnold McNair	United Kingdom	1946-1955
K. Mbaye	Senegal	1982-1991
* G. Morelli	Italy	1961-1970
* L. M. Moreno Quintana	Argentina	1955-1964
* P. D. Morozov	USSR	1970-1985

H. Mosler	Fed. Rep. of Germany	1976-1985
* Nagendra Singh	India	1973-1988
Ni Zhengyu	China	1985-1994
C. D. Onyeama	Nigeria	1967-1976
* L. Padilla Nervo	Mexico	1964-1973
R. S. Pathak	India	1989-1991
* S. Petrén	Sweden	1967-1976
* Sir Benegal Rau	India	1952-1953
* J. E. Read	Canada	1946-1958
* J. M. Ruda	Argentina	1973-1991
J. Sette-Camara	Brazil	1979-1988
M. Shahabuddeen	Guyana	1988-1997
* Sir Percy C. Spender	Australia	1958-1967
* J. Spiropoulos	Greece	1958-1967
* K. Tanaka	Japan	1961-1970
* N. K. Tarassov	Russian Federation	1985-1995
* S. Tarazi	Syria	1976-1980
* Sir Humphrey Waldock	United Kingdom	1973-1981
* V. K. Wellington Koo	China	1957-1967
* B. Winiarski	Poland	1946-1967
* Sir Muhammad Zafrulla Khan	Pakistan	1954-1961 and 1964-1973
* M. Zoričić	Yugoslavia	1946-1958

II. JUDGES *AD HOC*

If in a case the Court, or a chamber of the Court, includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge; similarly, if the Court or the chamber includes upon the Bench no judge of the nationality of the parties, each of these parties may choose a judge (Statute, Art. 31; Rules, Arts. 7-8, Art. 17, para. 2, Arts. 35-37, Art. 91, para. 2, and Art. 102, para. 3). Should there be several parties in the same interest they are reckoned for this purpose as one party only (Statute, Art. 31, para. 5; Rules, Art. 36 and Art. 37, para. 2).

Since the institution of the Court, judges *ad hoc* have been chosen in the following cases (unless otherwise indicated, they held the nationality of the appointing party):

Corfu Channel (United Kingdom v. *Albania)*. Albania chose Mr. I. Daxner (Czechoslovakia), who sat upon the Bench when the preliminary objection was heard, and Mr. B. Ečer (Czechoslovakia), who sat when the case was heard on the merits and also for the assessment of amount of compensation.

Asylum (Colombia/Peru), Request for Interpretation of the Judgment of 20 November 1950 in the Asylum Case (Colombia v. *Peru)* and *Haya de la Torre (Colombia* v. *Peru)*. Mr. J. J. Caicedo Castilla was chosen by Colombia and Mr. L. Alayza y Paz Soldán by Peru.

Ambatielos (Greece v. *United Kingdom)*. Mr. J. Spiropoulos was chosen by Greece.

Anglo-Iranian Oil Co. (United Kingdom v. *Iran)*. Mr. K. Sandjabi was chosen by Iran.

Nottebohm (Liechtenstein v. *Guatemala)*. Mr. C. García Bauer[1] was chosen by Guatemala and Mr. P. Guggenheim (Switzerland) by Liechtenstein.

Monetary Gold Removed from Rome in 1943 (Italy v. *France, United Kingdom and United States of America)*. Mr. G. Morelli was chosen by Italy.

Right of Passage over Indian Territory (Portugal v. *India)*. Mr. M. Fernandes was chosen by Portugal and the Hon. M. A. C. Chagla by India.

Application of the Convention of 1902 Governing the Guardianship of Infants (Netherlands v. *Sweden)*. Mr. J. Offerhaus was chosen by the Netherlands and Mr. F. J. C. Sterzel by Sweden.

Interhandel (Switzerland v. *United States of America)*. Mr. P. Carry was chosen by Switzerland.

Aerial Incident of 27 July 1955 (Israel v. *Bulgaria)*. Mr. Justice Goitein was chosen by Israel and Mr. J. Žourek (Czechoslovakia) by Bulgaria.

Aerial Incident of 27 July 1955 (United States of America v. *Bulgaria)*[2]. Mr. J. Žourek (Czechoslovakia) was chosen by Bulgaria.

Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras v. *Nicaragua)*. Mr. R. Ago (Italy) was chosen by Honduras and Mr. F. Urrutia Holguín (Colombia) by Nicaragua.

Barcelona Traction, Light and Power Company, Limited (Belgium v. *Spain)*[2]. Mr. W. J. Ganshof van der Meersch was chosen by Belgium and Mr. F. de Castro by Spain.

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[1] The Government of Guatemala had first chosen as judge *ad hoc* Mr. J. C. Herrera and subsequently Mr. J. Matos, before choosing Mr. García Bauer.

[2] Case removed from the List before the Court had occasion to sit.

South West Africa (Ethiopia v. *South Africa; Liberia* v. *South Africa).* Sir Louis Mbanefo (Nigeria)[1] was chosen by Ethiopia and Liberia and the Hon. J. T. van Wyk by South Africa.

Northern Cameroons (Cameroon v. *United Kingdom).* Mr. P. Beb a Don was chosen by Cameroon.

Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium v. *Spain).* Belgium chose Mr. W. J. Ganshof van der Meersch, who sat upon the Bench when the preliminary objections were heard, and Mr. W. Riphagen (Netherlands), who sat in the second phase. Spain chose Mr. E. C. Armand-Ugon (Uruguay).

North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands). Mr. H. Mosler was chosen by the Federal Republic of Germany and Mr. M. Sørensen (Denmark) by Denmark and the Netherlands.

Appeal Relating to the Jurisdiction of the ICAO Council (India v. *Pakistan).* Mr. Nagendra Singh was chosen by India.

Nuclear Tests (Australia v. *France).* Sir Garfield Barwick was chosen by Australia.

Nuclear Tests (New Zealand v. *France).* Sir Garfield Barwick (Australia) was chosen by New Zealand.

Trial of Pakistani Prisoners of War (Pakistan v. *India).* Pakistan chose Sir Muhammad Zafrulla Khan, who sat in the proceedings on the request for interim measures up to 2 July 1973, and Mr. Muhammad Yaqub Ali Khan[2].

Western Sahara. Mr. A. Boni (Ivory Coast) was chosen by Morocco.

Aegean Sea Continental Shelf (Greece v. *Turkey).* Mr. M. Stassinopoulos was chosen by Greece.

Continental Shelf (Tunisia/Libyan Arab Jamahiriya). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya and Mr. J. Evensen (Norway) by Tunisia.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (case referred to a Chamber). Mr. M. Cohen was chosen by Canada.

Continental Shelf (Libyan Arab Jamahiriya/Malta). Mr. E. Jiménez de Aréchaga (Uruguay) was chosen by the Libyan Arab Jamahiriya. Mr. J. Castañeda (Mexico) was chosen by Malta and sat in the proceedings culminating in the Judgment on Italy's application for permission to intervene. Mr. N. Valticos (Greece) was chosen by Malta to sit when the case was heard on the merits.

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[1] The Governments of Ethiopia and Liberia had first chosen as judge *ad hoc* the Hon. J. Chesson, subsequently Sir Muhammad Zafrulla Khan and then Sir Adetokunboh A. Ademola, before choosing Sir Louis Mbanefo.

[2] This case was removed from the List before the Court had occasion to hear argument on the question of its jurisdiction.

Frontier Dispute (Burkina Faso/Republic of Mali) (case referred to a Chamber). Mr. F. Luchaire (France) was chosen by Burkina Faso and Mr. G. Abi-Saab (Egypt) by the Republic of Mali.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. *United States of America).* Mr. C.-A. Colliard (France) was chosen by Nicaragua.

Application for Revision and Interpretation of the Judgment of 24 February 1982 in the Case concerning the Continental Shelf (Tunisia/Libyan Arab Jamahiriya) *(Tunisia* v. *Libyan Arab Jamahiriya).* Mrs. S. Bastid (France) was chosen by Tunisia and Mr. E. Jiménez de Aréchaga (Uruguay) by the Libyan Arab Jamahiriya.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening) (case referred to a Chamber). Mr. N. Valticos (Greece) was chosen by El Salvador and Mr. M. Virally (France) was chosen by Honduras. Following the death of Mr. Virally, Mr. S. Torres Bernárdez (Spain) was chosen by Honduras.

Maritime Delimitation in the Area between Greenland and Jan Mayen (Denmark v. *Norway).* Mr. P. H. Fischer was chosen by Denmark.

Aerial Incident of 3 July 1988 (Islamic Republic of Iran v. *United States of America).* Mr. M. Aghahosseini was chosen by the Islamic Republic of Iran[1].

Arbitral Award of 31 July 1989 (Guinea-Bissau v. *Senegal).* Mr. H. Thierry (France) was chosen by Guinea-Bissau. Following the expiry of Judge Mbaye's term of office on 5 February 1991 Senegal no longer had a judge of its nationality on the bench. It therefore chose Mr. K. Mbaye to sit as judge *ad hoc.*

Territorial Dispute (Libyan Arab Jamahiriya/Chad). Mr. J. Sette-Camara (Brazil) was chosen by the Libyan Arab Jamahiriya and Mr. G. M. Abi-Saab (Egypt) by Chad.

East Timor (Portugal v. *Australia).* Mr. A. de Arruda Ferrer-Correia was chosen by Portugal. Following his resignation, on 14 July 1994, Mr. K. J. Skubiszewski (Poland) was chosen by Portugal. Sir Ninian Stephen was chosen by Australia.

Passage through the Great Belt (Finland v. *Denmark).* Mr. B. Broms was chosen by Finland and Mr. P. H. Fischer by Denmark.

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[1] Case removed from the List before the Court held occasion to hear argument on the preliminary objections raised by the United States.

Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain).* Mr. J. M. Ruda (Argentina) was chosen by Qatar. Following the death of Mr. Ruda, Mr. S. Torres Bernárdez (Spain) was chosen by Qatar. Mr. N. Valticos (Greece) was chosen by Bahrain. He resigned for health reasons as from the end of the jurisdiction and admissibility phase of the case. Bahrain subsequently chose Mr. M. Shahabuddeen (Guyana) to sit as judge *ad hoc.* After the resignation of Mr. Shahabuddeen, Bahrain chose Mr. Yves L. Fortier (Canada) to sit as judge *ad hoc.*

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom).* Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya. Judge Higgins having excused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc.*

Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya v. *United States of America).* Mr. A. S. El-Kosheri (Egypt) was chosen by the Libyan Arab Jamahiriya.

Oil Platforms (Islamic Republic of Iran v. *United States of America).* Mr. F. Rigaux (Belgium) was chosen by the Islamic Republic of Iran.

Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia).* Mr. E. Lauterpacht (United Kingdom) was chosen by Bosnia and Herzegovina and Mr. M. Kreća by Yugoslavia.

Gabčikovo-Nagymaros Project (Hungary/Slovakia). Mr. K. J. Skubiszewski (Poland) was chosen by Slovakia.

Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. *Nigeria).* Mr. K. Mbaye (Senegal) was chosen by Cameroon and Prince B. A. Ajibola by Nigeria.

Fisheries Jurisdiction (Spain v. *Canada).* Mr. S. Torres Bernárdez was chosen by Spain and Mr. M. Lalonde by Canada.

Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests (New Zealand *v.* France) *Case.* Sir Geoffrey Palmer was chosen by New Zealand.

III. CHAMBERS

1. Chamber of Summary Procedure

The Statute (Art. 29) provides that, with a view to the speedy despatch of business, the Court shall form annually a Chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. The Court also selects two judges for this Chamber for the purpose of replacing judges who find it impossible to sit. Under Article 15 of the Rules of Court, the President and Vice-President are members of this Chamber ex officio, the other members and the substitutes being elected. The Chamber of Summary Procedure has never as yet been called upon to meet.

The Chamber of Summary Procedure is at present composed as follows: President Schwebel; Vice-President Weeramantry; Judges Herczegh, Shi and Koroma, members; Judges Higgins and Parra-Aranguren, substitute members.

2. Chambers Provided for in Article 26, Paragraph 1, of the Statute

The Statute (Art. 26, para. 1) provides also that the Court may from time to time form one or more chambers, composed of three or more judges, as the Court may determine, for dealing with particular categories of cases: for example, labour cases and cases relating to transit and communications. Cases are heard and determined by these chambers if the parties so request.

In the past the Court has considered the question of the possible formation of a chamber to deal with environmental matters. On those occasions it took the view that it was not yet necessary to set up a standing special chamber, emphasizing that it was able to respond rapidly to requests for the constitution of a so-called "*ad hoc*" chamber (pursuant to Article 26, paragraph 2, of the Statute) which could deal also with any environmental case.

In view of the developments in the field of environmental law and protection which have taken place in the last few years, and considering that it should be prepared to the fullest possible extent to deal with any environmental case falling within its jurisdiction, the Court, in July 1993, deemed it appropriate to establish a seven-member Chamber for Environmental Matters to deal with such cases as parties might refer to it in accordance with Article 26 of the Statute. The Chamber is at present composed as follows: President Schwebel; Vice-President Weeramantry; and Judges Bedjaoui, Ranjeva, Herczegh, Fleischhauer and Rezek.

3. Chambers Formed under Article 26, Paragraph 2, of the Statute

The Statute (Art. 26, para. 2) provides that the Court may form a chamber for dealing with a particular case, the number of judges constituting such a chamber being determined by the Court with the approval of the parties.

Chambers of this kind have been formed at the joint request of the parties to deal with four cases. They are listed below with an indication of the date on which the respective Chamber was constituted and the names of its members.

Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America): constituted on 20 January 1982; Judges Ago *(President)*, Gros, Mosler, Schwebel; Judge *ad hoc* Cohen.

Frontier Dispute (Burkina Faso/Republic of Mali): constituted on 3 April 1985; Judges Bedjaoui *(President)*, Lachs, Ruda; Judges *ad hoc* Luchaire, Abi-Saab.

Elettronica Sicula S.p.A. (ELSI) (United States of America v. *Italy)*: constituted on 2 March 1987 with the following composition – Judges Nagendra Singh *(President)*, Oda, Ago, Schwebel, Sir Robert Jennings. Following the death of Judge Nagendra Singh the Court, on 20 December 1988, elected President Ruda to succeed him as member and (ex officio) President of the Chamber.

Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua [as from 13 September 1990] *intervening)*: constituted on 8 May 1987 with the following composition – Judges Oda, Sette-Camara, Sir Robert Jennings; Judges *ad hoc* Valticos, Virally. The Chamber elected Judge Sette-Camara to be its President. After the death of Judge Virally, Mr. Torres Bernárdez was chosen to sit as judge *ad hoc* in his place, and on 13 December 1989 the Court declared the Chamber to be composed as follows: Judges Sette-Camara *(President)*, Oda, Sir Robert Jennings; Judges *ad hoc* Valticos, Torres Bernárdez. On 7 February 1991 Judges Sir Robert Jennings and Oda exchanged places in the order of precedence within the Chamber owing to their election to be, respectively, the Court's President and Vice-President.

4. *Provisions in the Rules relating to Chambers*

Articles 15-18 and 90-93 of the Rules of Court contain the provisions relating to chambers.

IV. ASSESSORS

Article 30, paragraph 2, of the Statute and Article 9 of the Rules of Court provide that the Court may, either *proprio motu* or upon a request made not later than the closure of the written proceedings, decide, for the purpose of a contentious case or request for advisory opinion, to appoint assessors to sit with it, without the right to vote. The chambers also have the power to appoint assessors.

These provisions have not been applied up to the present.

V. THE REGISTRAR

The Court appoints its Registrar (Statute, Art. 21, para. 2; Rules, Art. 22).

The present Registrar is Mr. Eduardo Valencia-Ospina (see Chap. V, p. 145, below).

VI. PRIVILEGES AND IMMUNITIES

Article 19 of the Statute provides: "The Members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities."

In the Netherlands, pursuant to an exchange of correspondence between the President of the Court and the Minister for Foreign Affairs, dated 26 June 1946, they enjoy, in a general way, the same privileges, immunities, facilities and prerogatives as Heads of Diplomatic Missions accredited to Her Majesty the Queen of the Netherlands (*I.C.J. Acts and Documents No. 5*, pp. 200-207). In addition, in accordance with the terms of a letter dated 26 February 1971 from the Minister for Foreign Affairs of the Netherlands, the President of the Court takes precedence over the Heads of Mission, including the Dean of the Diplomatic Corps, who is immediately followed by the Vice-President of the Court and thereafter the precedence proceeds alternately between Heads of Mission and the Members of the Court (*ibid.*, pp. 210-213).

By resolution 90 (1) of 11 December 1946 (*ibid.*, pp. 206-211), the General Assembly of the United Nations approved the agreement concluded with the Government of the Netherlands in June 1946 and recommended that ". . . if a judge, for the purpose of holding himself permanently at the disposal of the Court, resides in some country other than his own, he should be accorded diplomatic privileges and immunities during the period of his residence there" and that "... judges should be accorded every facility for leaving the country where they may happen to be, for entering the country where the Court is sitting, and again for leaving it. On journeys in connection with the exercise of their functions, they should, in all countries through which they may have to pass, enjoy all the privileges, immunities and facilities granted by these countries to diplomatic envoys."

The same resolution contains also a recommendation calling upon Members of the United Nations to recognize and accept United Nations laissez-passer issued to the judges by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations.

Furthermore, Article 32, paragraph 8, of the Statute provides that the "salaries, allowances and compensation" received by judges "shall be free of all taxation".

CHAPTER II

BIOGRAPHIES OF JUDGES

Biographies of judges who held office in the period 1 August 1997 to 31 July 1998 will be found below.

I. MEMBERS OF THE COURT ON 31 JULY 1998

President Stephen M. SCHWEBEL

(Member of the Court since 15 January 1981; re-elected as from 6 February 1988 and from 6 February 1997; member of the Chamber formed to deal with the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)*, 1981-1984, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1994 to 1997, President of the Court since 6 February 1997)

Born in New York City, on 10 March 1929.

Harvard University, B.A. *magna cum laude* with highest honours in government (1950); Cambridge University, studies in international law (1951); LL.B., Yale Law School (1954). Doctor *honoris causa*, Bhopal University, India (1982), Hofstra University, New York (1996). Awarded the Yale Law School Medal of Merit (1997).

Admitted to the Bar of the State of New York (1955); of the Supreme Court of the United States (1965); and of the District of Columbia (1976).

Attorney, White & Case, New York (1954-1959).

Assistant Professor of Law, Harvard University (1959-1961).

Professor of International Law and subsequently Edward B. Burling Professor of International Law and Organization, the School of Advanced International Studies, The Johns Hopkins University, Washington, D.C. (1967-1981). Visiting lecturer or professor at Cambridge University (1957, 1983); the Australian National University (1969); the Hague Academy of International Law (1972); the Graduate Institute of International Studies, Geneva (1980); and at other universities in the United States and elsewhere.

Assistant Legal Adviser, Department of State (1961-1966); Special Assistant to the Assistant Secretary of State for International Organization Affairs (1966-1967); Consultant to the Department of State (1967-1973). Counselor on International Law, Department of State (1973-1974); Deputy Legal Adviser, Department of State (1974-1981).

Legal Adviser to the United States delegation, and Alternate Representative in the Sixth Committee, during sessions of the United Nations General Assembly (1961-1965). United States representative and chairman of the United States delegation to various committees of the United Nations, including the Special Committee on Principles of International Law concerning Friendly Relations and Co-operation among States (1964); the Special Committee on the Question of Defining Aggression (1971); and the UNCTAD Working Group on a Charter of Economic Rights and Duties of States (1973-1974).

Member of the International Law Commission of the United Nations (1977-1981). Chairman of the Drafting Committee (1978); Special Rapporteur on the Law of the Non-Navigational Uses of International Watercourses (1977-1981).

Participated as Associate Representative, Representative, Counsel or Deputy Agent of the United States in various cases before the International Court of Justice (between 1962 and 1980).

Arbitrator or president in international commercial arbitration (since 1982). Member of the Arbitral Tribunal in the *Eritrea-Yemen Arbitration* (since 1996).

Executive Vice-President and Executive Director of the American Society of International Law (1967-1973). Honorary Vice-President (since 1983). Honorary President (since 1996). President of the Administrative Tribunal of the International Monetary Fund (since January 1994).

Member of the Board of Editors, *American Journal of International Law* (1967-1981); Honorary Editor (since 1996). Chairman of the Editorial Advisory Committee, *International Legal Materials* (1967-1973).

Member of the Institute of International Law; the American Society of International Law; the American Branch of the International Law Association; the American Bar Association; and the Council on Foreign Relations. Honorary Fellow of the Lauterpacht Research Centre in International Law of Cambridge University. Member of the Board of Electors of the Whewell Professorship of International Law of Cambridge University. Former Member of the Board of Overseers' Committee to Visit the Harvard Law School. Former Chairman of the Supervisory Board of the Telders International Law Moot Court Competition.

Author of *The Secretary-General of the United Nations: His Political Powers and Practice*, 1952; *The Effectiveness of International Decisions*, 1971 (as editor); "Aggression, Intervention and Self-Defence in Modern International Law", *Recueil des cours*, Hague Academy of International Law, 1972; reports to the International Law Commission on the law of the non-navigational uses of international watercourses; *International Arbitration: Three Salient Problems* (1987); *Justice in International Law* (1994); and some one hundred articles, notes and book reviews in legal and other publications. Research and drafting assistant to United Nations Secretary-General Trygve Lie in the writing of *In the Cause of Peace*, 1954.

Vice-President Christopher Gregory WEERAMANTRY

(Member of the Court since 6 February 1991; Vice-President of the Court since 6 February 1997)

Born in Colombo, Sri Lanka, on 17 November 1926.

B.A.; LL.B.; LL.D. (University of London); LL.D. *(honoris causa)* (University of Colombo).

Advocate, Supreme Court of Sri Lanka (1948-1965). Lecturer and Examiner, Council of Legal Education, Sri Lanka (1951-1956). Commissioner of Assize, Supreme Court of Sri Lanka (1965-1967). Justice of the Supreme Court of Sri Lanka (1967-1972). Member, Council of Legal Education, Sri Lanka (1967-1972). Honorary Visiting Professor, University of Colombo (since 1984). Honorary Life Member, Bar Association of Sri Lanka.

Sir Hayden Starke Professor of Law, Monash University, Melbourne, Australia (1972-1991). Emeritus Professor of Law, Monash University (since 1991). Chairman, Commission of Inquiry into International Responsibility for Phosphate Mining on Nauru (1987-1988).

Panellist, Unesco Seminar on Teaching of Human Rights, Canberra (1980); Member, United Nations University Task Force on Human Rights (1982); Vice-Chairman, United Nations Centre against *Apartheid*/Government of Nigeria Conference on Legal Status of *Apartheid* Régime, Lagos (1984); Panellist, SCOPE/ENUWAR/UNU (Scientists' Committee on Problems of the Environment/Environmental Consequences of Nuclear War/United Nations University), International Conference on Nuclear Danger, Tokyo (1985); Lecturer, United Nations Human Rights Commission Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Palais des Nations, Geneva (1988); Editor, United Nations University/United Nations Human Rights Commission's two-volume study on Science, Technology and Human Rights (1988-1990); Co-ordinator, United Nations University/Netherlands Institute of Human Rights Workshop on Science, Technology and Human Rights, Utrecht (1989).

Visiting Professorships and Academic Appointments: University of Tokyo (1978); University of Stellenbosch (1979); University of Papua New Guinea (1981); University of Florida (1984); Lafayette College, Pennsylvania (1985); University of Hong Kong (1989).

Member, Editorial Board: *Sri Lankan Journal of International Law; Human Rights Quarterly*, Johns Hopkins University; *Interdisciplinary Peace Research*, La Trobe University; *Journal of Ceylon Law*; Advisory Board, *China Law Reports*; Editorial Advisory Board, *Asia Pacific Journal of Environmental Law*; Board of Recommendation, *Yearbook on International Humanitarian Law*; Editorial Board of Advisers, *Pacific Review*.

Associate Academician, International Academy of Comparative Law, Paris; Vice-President, International Commission of Jurists, Victoria; Past President, World Federation of Overseas Sri Lankan Organizations; Vice-

Patron, United Nations Association of Sri Lanka; Member, Club of Rome (Australia); Commonwealth Lawyers Association; Society of Public Teachers of Law; World Association of Law Professors; Lawasia; World Association on the Philosophy of Law and Legal Philosophy.

Books: *The Law of Contracts, being a Comparative Study of the Roman-Dutch, English and Customary Laws of Contract in Ceylon* (2 vols.), 1965; *The Law in Crisis: Bridges of Understanding*, 1975; *Equality and Freedom: Some Third World Perspectives*, 1976; *Human Rights in Japan*, 1979; *Apartheid: The Closing Phases?*, 1980; *An Invitation to the Law*, 1980; *The Slumbering Sentinels: Law and Human Rights in the Wake of Technology*, 1983; *Law: The Threatened Peripheries*, 1984; *Nuclear Weapons and Scientific Responsibility*, 1987 (translated into Japanese); *Islamic Jurisprudence: Some International Perspectives*, 1988; *Human Rights and Scientific and Technological Development*, ed., 1990; *Nauru: Environmental Damage under International Trusteeship*, 1992; *The Impact of Technology on Human Rights: Global Case-Studies*, ed., 1993; *Justice without Frontiers*, Vol. I, *Furthering Human Rights*, 1997; Vol. II, *Protecting Human Rights in the Age of Technology*, 1998; *The Lord's Prayer: Bridge to a Better World*, 1998.

Reports: *Report of the Nauru Commission of Inquiry* (10 vols.), 1988 (joint author).

Articles in law journals in Asia, Africa, Australasia, Europe and North America.

Published lectures include: "Fundamental Perspectives on Equality and Freedom", World Congress on Equality and Freedom, St. Louis, Missouri (1976), an official event marking the American Bicentennial; "National and Transnational Systems as Denigrators of Human Rights", Unesco Seminar on Teaching of Human Rights, Canberra (1981); "The Right to Development", Lawasia Seminar on Establishment of a Regional Human Rights Framework for the Pacific, Suva (1985); "Cultural and Ideological Pluralism in Contemporary Public International Law", World Congress of International Academy of Comparative Law, Sydney and Melbourne (1986); "Traffic in Armaments: A Blind Spot in Human Rights and International Law", Joint Soviet/US International Conference on Nuclear Weapons and International Law, New York (1987); "Emerging Dimensions of Sovereignty in International Law", International Seminar on the Coming Global Civilization, Moscow (1988); "The Teaching of Human Rights", United Nations Seminar commemorating 40th anniversary of Universal Declaration of Human Rights, Geneva (1988); "The Law, Nuclear Weapons and the Real World", First World Convention of Lawyers against Nuclear Arms, The Hague (1989); "International Arbitration under the UNCITRAL Rules", Regional Seminar on International Arbitration, Kuala Lumpur (1989); "Judicial Reasoning under the Common Law", Commonwealth Law Conference, Auckland (1990); "The Importance of Philosophical Perspectives to the Judicial Process", 6 *Connecticut Journal of International Law* (1991); "Does International Law Matter?", *Inaugural Tun Hussein Onn Memorial*

Lecture, Kuala Lumpur (1991); "The Right to Know: Freedom of Information as a Human Right", Commonwealth Law Conference, Cyprus (1993); "Introducing Human Rights to the Younger Generation", Unesco, Netherlands (1993); "The Constancy of the Judicial Obligation", Inaugural Fernando Memorial Lecture, Colombo (1994); "The World Court: Its Conception, Constitution and Contribution", *Inaugural Governor's Forum*, Melbourne, Victoria, Australia (1994); 1995 Martin Luther King Lecture, "On Earth as It Is in Heaven: A Vision of World Order for the 21st Century", *Tulsa Journal of Comparative and International Law*, 1995; Inaugural Nagendra Singh Memorial Lecture, "The International Court of Justice in the Age of Multiculturalism", 36 *Indian Journal of International Law* (1996); "The Function of the International Court of Justice in the Development of International Law", 10 *Leiden Journal of International Law* (1997).

Order of *Deshamanya* (Sri Lanka); Mohamed Sahabdeen Award for International Understanding in the SAARC Region, 1993.

Judge Shigeru ODA

(Member of the Court since 6 February 1976; re-elected as from 6 February 1985 and from 6 February 1994; member of the Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)*, 1986-1992, and of the Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)*, 1987-1989; Vice-President of the Court from 1991 to 1994; Acting President in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born on 22 October 1924.

Law degree, University of Tokyo (1947). Doctor of Law (JSD), Yale University (1953). Doctor of Law, University of Tôhoku (1962). Presently Professor Emeritus of the Tôhoku University (since 1985) and Member of the Japan Academy (since 1994). Awarded the Yale Law School Medal of Merit (1997). Doctor *honoris causa* of the Bhopal University, India (1980), and of the New York Law School (1981).

Research Fellow in international law, University of Tokyo (1947-1949). Lecturer (1950-1953), Associate Professor (1953-1959) and Professor (1959-1976) at Tôhoku University. Technical Adviser to the Atomic Energy Commission (1961-1964) and to the Council for Marine Science and Technology in the Prime Minister's Office (1968-1971). Special Assistant to the Minister for Foreign Affairs (1973-1976). Member of the Science Council of the Ministry of Education (1969-1976), of the Council for Ocean Development in the Prime Minister's Office (1971-1976), and of the Advisory Committee for Co-operation with the United Nations University (1971-1976).

Delegate to the United Nations Conferences on the Law of the Sea (1958, 1960 and 1973-1975); member of the United Nations Group of Experts on Marine Science and Technology (1967-1968); Alternate Representative of Japan on the United Nations Committee on the Peaceful Uses of the Sea-bed and Ocean Floor (1968-1973); Legal Consultant to the ESCAP Committee for Co-ordination of Joint Prospecting for Mineral Resources in Asian Offshore Areas (1969, 1972 and 1975). Member of the panel of the International Atomic Energy Agency on the Legal Implications of the Disposal of Radio-active Waste into the Sea (1961-1963) and of the Agency's group of experts for the Study of the Character and Purpose of Appropriate Observation of Peaceful Nuclear Explosions (1970). Representative of Japan at the sixth General Conference of the Inter-Governmental Oceanographic Commission (1969); Chairman of the Working Group on Legal Questions related to Scientific Investigations of the Ocean (1968-1975). Alternate Member of the Asian-African Legal Consultative Committee (1971-1975).

Counsel for the Federal Republic of Germany before the International Court of Justice in the *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* cases (1968).

Member of the Executive Council of the International Law Association of Japan. Associate (1969) and Member (1979) of the Institute of International Law. Honorary life Member of the American Society of International Law (1975). Honorary Member of the Japanese Society of International Law (1975). Honorary Member of the Indian Society of International Law. Member of the Curatorium of the Hague Academy of International Law (since 1987); Member of the Curatorium of the Institute of International Public Law and International Relations (Thessaloniki). Member of the International Council of Arbitration for Sport (since 1994). Member of the Board of the International Development Law Institute (since 1995).

Editor-in-chief of the *Japanese Annual of International Law* (1973-1977). General editor for *Publications on Ocean Development* and *International Law in Japanese Perspective* of Kluwer Law International (Martinus Nijhoff).

Lecturer on the "International Law of the Resources of the Sea" and on "The International Court of Justice Viewed from the Bench (1976-1993)" at the Hague Academy of International Law (*Recueil des cours*, Vol. 127, 1969, and Vol. 244, 1993).

Publications: in English – *International Control of Sea Resources*, reprinted edition with a new introduction, 1989; *The International Law of the Ocean Development* (4 vols.), 1972-1979; *The Law of the Sea in Our Time* (2 vols.), 1977; *International Law of the Resources of the Sea*, reprinted edition with supplement (1979); *The Practice of Japan in International Law 1961-1970* (edited with H. Owada), 1982; in Japanese – *Inter-*

national Law of the Sea (1956, revised ed. 1969); *International Law of Marine Resources* (3 vols.), 1971-1975; *Judicial Decisions of the Japanese Courts involving International Law* (edited with T. Sogawa), 1978, revised and updated edition, 1991; *The Law of the Sea*, Vol. I, 1979; *The Law of the Sea: 25 Years of Recollections*, 1981; *Treaties and Conventions* (edited with Y. Ishimoto), 1983, sixth revised ed., 1996; *Commentary on the United Nations Convention on the Law of the Sea*, Vol. I, 1985; *The International Court of Justice*, 1987; *A Collection of Essays on the Law of the Sea*, 1989; and various articles on international law in English and in Japanese.

Judge Mohammed BEDJAOUI

(Member of the Court since 19 March 1982; re-elected as from 6 February 1988 and from 6 February 1997; President of the Chamber formed to deal with the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*, 1983-1987; President of the Court from 1994 to 1997)

Born in Sidi-Bel-Abbes, Algeria, on 21 September 1929.

Doctor of Law, Law Faculty of the University of Grenoble, France (1955). Doctor *honoris causa* of the Universities of Hyderabad, Aix-en-Provence, Brussels and Kuwait. Diploma of the Institute of Political Studies, University of Grenoble (1952).

"Avocat stagiaire" at the Court of Appeal of Grenoble (1951-1953). Research Assistant at the Centre national de la recherche scientifique (CNRS), France (1956-1958).

Legal Adviser to the Provisional Government of the Republic of Algeria (1958-1961). Expert adviser to the Algerian delegation in the independence negotiations at Evian and Lugrin (1961).

Executive Secretary to the President of the National Constituent Assembly at Algiers (1962). Secretary-General of the Government (1962-1964).

Dean of the Faculty of Law and Economics of the University of Algiers (1964-1965).

Minister of Justice and Keeper of the Seals (1964-1970).

Algerian Ambassador to France (1970-1979). Permanent delegate of Algeria to Unesco (1971-1979). Ambassador and Permanent Representative of Algeria to the United Nations in New York (1979-1982).

Co-President of the United Nations Commission of Enquiry to Iran (February-March 1980). Vice-President of the United Nations Council for Namibia (1979-1982). Chairman of the Group of 77 (1981-1982). Chairman of the Committee on the Drafting of an International Convention against the Recruitment, Use, Financing and Training of Mercenaries (1981-1982). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea and Guinea-Bissau (1983-1985). Member of the Arbitration Tribunal for the determination of the maritime boundary between Guinea-Bissau and Senegal (1985-1989). Arbitrator or President in several international commercial arbitrations.

Participated in various sessions of the United Nations General Assembly as member, deputy-head or head of the Algerian delegation. Head of the Algerian delegations to the United Nations Conferences on Succession of States in Respect of Treaties (1977) and the Law of the Sea (1976-1980).

Took part in various sessions of the OAU Council of Ministers and OAU Summit Meetings, and in various ministerial meetings or conferences of heads of State and government of the non-aligned countries, as member, deputy-head or head of the Algerian delegation. United Nations Consultant Expert at the Vienna Conference on Succession of States in respect of State Property, Archives and Debts (1983).

Member of the International Law Commission (1965-1982).

Member of the Institute of International Law (since 1977); First Vice-President of the Institute (Strasbourg 1997-Berlin 1999). Member of the French Society for International Law. Member of the Scientific Council of the Institut du droit économique de la mer of the Principality of Monaco. Member of the Governing Board of the Foundation for International Studies of the University of Malta, Valletta. Member of the Independent Commission on International Humanitarian Issues (co-chaired by Prince Hassan bin Talal of Jordan and Prince Sadruddin Agha Khan) (1982-1987). Member of several award panels for international prizes, including that of the Albert Schweitzer Prize (United States of America). Member of the Jury for the Félix Houphouët-Boigny Peace Prize (Unesco). Member of the Unesco *Ad Hoc* Forum for Reflection (1992). Member of the Unesco International Consultative Committee on Bioethics. Member of the International Committee of Advisers of the Chinese International Law Institute, Beijing. Member of the International Council for Global Health Progress (since 1994). Member of the Independent World Commission on the Oceans (President: Mr. Mario Soarès) (1995-1998).

Recipient of various prizes and honours.

Holder of decorations of several States.

Author of eight books and over 170 articles.

Judge Gilbert GUILLAUME

(Member of the Court since 14 September 1987; re-elected
as from 6 February 1991)

Born in Bois-Colombes, France, on 4 December 1930.

Licence (Bachelor's degree) in law, University of Paris. Diplôme from the Paris Institute of Political Studies; Diplôme d'études supérieures d'économie politique et de science économique (Diploma of Advanced Studies in Political Economy and Economic Science), University of Paris.

Alumnus of the Ecole nationale d'administration.

Member of the Council of State, as Auditeur (1957), then Maître des Requêtes (1963), and most recently Councillor of State (1981).

Legal Adviser to the State Secretariat for Civil Aviation (1968-1979); French Representative on the Legal Committee of the International Civil Aviation Organization (ICAO) (1968-1979) and Chairman of the Committee (1971-1975); delegate to the diplomatic conferences on the suppression of the unlawful seizure of aircraft (The Hague, 1970), the suppression of unlawful acts against the safety of civil aircraft (Montreal, 1971) and air safety (Rome, 1973); President of the Diplomatic Conference on the Liability of the Carrier (Montreal, 1975); Head of the French delegations to the diplomatic conferences on the liability of the carrier vis-à-vis third parties (Montreal, 1978) and the non-use of force against civil aircraft (Montreal, 1984).

Chairman of the Conciliation Commission, Organisation for Economic Co-operation and Development (1973-1978); Member of the European Space Agency Appeals Board (1975-1978); Director of Legal Affairs, Organisation for Economic Co-operation and Development (1979).

Director of Legal Affairs, Ministry of Foreign Affairs (1979-1987).

Counsel for France in the arbitration proceedings between France and the United States over the Franco-American air agreement (1978); Agent for France in the arbitration proceedings between France and Canada over the Franco-Canadian fisheries agreement (1986); Agent for France in numerous cases before the Court of Justice of the European Communities and the European Commission and Court of Human Rights. French Representative on the Central Commission for the Navigation of the Rhine (1979-1987); Chairman of the Commission (1981-1982); French Representative on the Asian-African Legal Consultative Committee (1980-1987).

French delegate to the General Assembly of the United Nations (Sixth Committee) (1982-1987); Head of the French delegation to the Third United Nations Conference on the Law of the Sea (1982), the United Nations Conference on Succession of States in respect of State Property, Archives and Debts (Vienna, 1983) and the United Nations Conference on the Law of Treaties between States and International Organizations or between International Organizations (Vienna, 1986).

Member of the Permanent Court of Arbitration (since 1980). Member of the Court of Arbitration of the Organization for Security and Co-operation in Europe (OSCE). Designated arbitrator by the International Telecommunications Satellite Organization and by the International Civil Aviation Organization, the International Chamber of Commerce and the International Centre for the Settlement of Investment Disputes (ICSID).

President of the French branch of the International Law Association (ILA). Associate Member of the Institute of International Law. Vice-President of the French Society for International Law. Honorary Chairman of the French Society for Air and Space Law. Member of the

International Institute of Law of the French-speaking Countries (IDEF). Member of the Académie de marine. Member of the Académie de l'air et de l'espace. Member of the International Academy of Comparative Law. Member of the Scientific Board of the *Revue générale de droit international public* and of the Board of Directors of the *Annuaire français de droit international*. Chairman of the Board of Directors of the *Revue française de droit aérien et spatial*.

Author of numerous works and articles. Has given a course on "Terrorism and International Law" at the Hague Academy of International Law ("Terrorisme et droit international", *Recueil des cours*, Vol. 215, 1989). Author of a work on *Les grandes crises internationales et le droit* (1994).

Judge Raymond RANJEVA

(Member of the Court since 6 February 1991)

Born in Antananarivo, Madagascar, on 31 August 1942.

Bachelor's degree in law (1965), University of Madagascar, Antananarivo. *Diplôme* from the Madagascar National School of Administration (1966). Trainee in the Judicial Division of the Conseil d'Etat, Paris (1965-1966). *Diplôme* d'études supérieures de sciences politiques, University of Paris, Faculty of Law and Economic Science (1966). *Diplôme* d'études supérieures de droit public, University of Madagascar (1967). Doctorate of Law, University of Paris II (thesis: "La succession d'organisations internationales en Afrique"). *Agrégé* of the Faculties of Law and Economics, Public Law and Political Science section, Paris (1972).

Laureate of the University of Madagascar. Laureate of the National Association of Doctors of Law. Laureate of the Madagascar National School of Administration.

Civil Administrator (1966). Assistant (1966-1972), Lecturer (1972) and Professor (1981-1991) at the University of Madagascar. Professor at the Madagascar Military Academy and at the Madagascar National School of Administration. Director of the Public Law and Political Science Study Centre. Director of the Legal and Political Science Department of the University of Madagascar. Dean of the Faculty of Law, Economics, Management and Social Sciences (1982-1986); reappointed in 1986. First Rector of the University of Antananarivo (1988-1990). Associate or visiting lecturer at several universities abroad: University of Aix-Marseille III, Bordeaux I, Paris I (Panthéon-Sorbonne), Paris II (Panthéon-Assas) and the Institute of Advanced International Studies, La Réunion and Burundi. Director of the French-speaking research seminar at the Hague Academy of International Law (1987). Member (Ouagadougou, 1988) and President (Cotonou, 1992) of the Board of *Agrégation* Examiners of the African and Malagasy Council on Higher Education.

Conciliator at the World Bank International Centre for Settlement of Investment Disputes since 1970. Member of Malagasy delegations to several international conferences: Third United Nations Conference on the Law of the Sea; Preparatory Commission for the International Seabed Authority and the Law of the Sea Tribunal; United Nations General Assembly (1979-1990); Non-Aligned Countries (1979); Conference of States which use French (1987); Head of the Malagasy delegation to the United Nations Conference on Succession of States in respect of Treaties, Vienna (1976-1977); Member of the Malagasy delegation responsible for negotiating the revision of the co-operation agreements with France (1973); First Vice-Chairman of the First African Seminar on International Humanitarian Law, Yaoundé (1977). Vice-President for Africa of the International Conference of French-Speaking Faculties of Law and Political Science (1987-1991).

Counsel to the Republic of Mali in the case concerning the *Frontier Dispute (Burkina Faso/Republic of Mali)*. Consultant for Madagascar on the amicable settlement of the transfer to the State of the activities of Eau-Electricité de Madagascar and Electricité de France (1973). Member of the Court of Arbitration for Sport (since 1995).

Member and Vice-President of the Malagasy Academy (1974); President of the ethics and political science section (1975-1991). Managing Director of JURECO: legal, economic and financial databank – research and advisory bodies (1986-1990). Editor of the periodical *Lettre mensuelle de Jureco* (1986-1988). Member of the French Society of International Law. Member of the Quebec Society of International Law. Member of the Governing Body of the African Society of International and Comparative Law.

Member of the National Constitutional Committee (1975). Founding Member of the Malagasy Human Rights Committee (1971). Legal adviser to the Catholic Bishops Conference, Madagascar. Secretary-General of the Malagasy Legal Studies Society.

Commandeur of the National Order of Madagascar. Chevalier of the Madagascar Order of Merit. Officer of the National Order of Mali. Six Honours.

Author of numerous books, essays and articles and has given lectures at a number of seminars.

Judge Géza HERCZEGH

(Member of the Court since 10 May 1993; re-elected as from 6 February 1994)

Born in Nagykapos, on 17 October 1928.

Educated at French Grammar School in Gödöllö, Hungary.

Bachelor's degree in law, University of Szeged (1951); Candidate in Jurisprudence (Ph.D.) (1965); Doctor *honoris causa* at the Law Faculty of the University of Marburg, Germany (1990); Corresponding Member (1985), and Member of the Hungarian Academy of Sciences (1990); Vice-President of the Department of Legal and Economic Sciences of the Hungarian Academy of Sciences (1990-1993).

Research Fellow in public international law at the Institute of Political Sciences, Budapest (1951-1967); studies as Senior Fellow at various institutes, e.g. in Paris (1966), Salzburg (1970); Professor of Law, Head of the International Law Department of the Law Faculty of the University of Pécs (1967-1990); Dean of the Law Faculty of the University of Pécs (1981-1987); lectured in international humanitarian law at several universities (e.g., Bayreuth, Bratislava, Cambridge, Cracow, Exeter, Graz, Marburg, Moscow, Osijek, Novi Sad, Vienna) (1970-1985); lecturer in seminars for the implementation and dissemination of international humanitarian law, Warsaw (1985), Vegimont (1989).

Judge and Vice-President of the Constitutional Court of the Republic of Hungary (1990-1993).

Represented the Hungarian Red Cross Society as expert on international humanitarian law at the conferences of The Hague (1971), Vienna (1972), Tehran (1973), Monaco (1984); governmental expert on international humanitarian law at the conferences of Geneva (1971 and 1972); member of the Hungarian delegation at the Diplomatic Conference of Geneva on the protection of victims of armed conflicts (1974-1977); served as Vice-President of the Third Commission of the same Conference; member of the Hungarian delegation at the Unesco Conference in Sophia (1985); Rapporteur at the Third Conference on Parliamentary Democracy organized by the Council of Europe on the topic "Problems of Transition from an Authoritarian or Totalitarian Régime to a Genuinely Democratic System", Strasbourg (1991); member of the expert working group ("Badinter Group") preparing the draft convention on peaceful settlement of disputes within the framework of the Conference on Security and Co-operation in Europe, Paris (1992).

Author of the following works: ***The Colonial Question and International Law*** (in Hungarian), 1962; ***General Principles of Law and the International Legal Order***, Series in Foreign Languages, 1969; ***Development of International Humanitarian Law***, 1984; ***Foreign Policy of Hungary, 896-1919*** (in Hungarian), 1987; and of numerous articles in international law and relations, especially in international humanitarian law.

Judge Shi Jiuyong

(Member of the Court since 6 February 1994)

Born in Zhejiang, China, on 9 October 1926.

B.A. in Government and Public Law, St. John's University, Shanghai (1948); M.A. in International Law, Columbia University, New York, United States of America (1951); research in international law at Columbia University, New York (1951-1954).

Assistant Research Fellow in International Law, Institute of International Relations, Beijing, China (1956-1958). Senior Lecturer, Associate Professor of International Law, Foreign Affairs College, Beijing

(1958-1964). Research Fellow in International Law, Institute of International Law, Beijing (1964-1973). Research Fellow in International Law, Institute of International Studies, Beijing (1973-1980). Professor of International Law, Foreign Affairs College, Beijing (1984-1993). Professor of Law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China, Beijing (1987-1988).

Adviser, Chinese Society of International Law, Beijing. Council member, Institute of Hong Kong Law of the Chinese Law Society, Beijing. Member, American Society of International Law.

Legal Adviser, Ministry of Foreign Affairs, People's Republic of China (1980-1993). Legal Adviser, Office of the Chinese Senior Representative, Sino-British Joint Liaison Group (on the question of Hong Kong) (1985-1993). Legal Adviser, Chinese Centre of Legal Consultancy, Beijing (1989-1993). Member, Standing Committee, Beijing Committee (1988-1993), and member, Eighth National Committee (1993), Chinese People's Political Consultative Conference.

Legal Adviser, Chinese delegation to the 1980 Annual Meeting of the Boards of Governors of the International Monetary Fund and the International Bank for Reconstruction and Development. Legal Adviser, delegation of the Ministry of Finance of the People's Republic of China for the formal visit to the International Bank for Reconstruction and Development (1980). Adviser, Chinese delegation to the thirty-fifth session of the General Assembly of the United Nations and China's Alternate Representative to the Sixth Committee at that session. Adviser, Chinese delegation to the thirty-sixth, thirty-seventh and thirty-eighth sessions of the United Nations General Assembly and China's delegate to the Sixth Committee at the same sessions (1981-1983). Delegate, Chinese delegation to the sessions of the Asian-African Legal Consultative Committee in 1981, 1985 and 1993. Legal Adviser, Chinese delegation to the talks between the Government of China and the Asian Development Bank on the question of China's membership in the Bank (1986). Legal Adviser of the Chinese side, Working Group of the Sino-British Negotiations on the question of Hong Kong (1984). Legal Adviser of the Chinese side, Sino-British Joint Liaison Group (on Hong Kong), plenary sessions (1985-1993). Delegate, Chinese delegation, legal consultations between the Ministry of Foreign Affairs of the People's Republic of China and the Department of State of the United States of America (1983 and 1984). Delegate, Chinese delegation, negotiations between the Government of the People's Republic of China and the Government of the United States of America on Mutual Promotion and Protection of Investment Agreement (1983 and 1984). Representative of the International Law Commission to the forty-fifth session of the United Nations General Assembly (1990). Expert from China, Senior Legal Experts Meetings on Review of Montevideo Programme, United Nations Environment Programme, 5-6 July 1991 at Geneva and 5-7 September 1991 at Nairobi. Representative of the International Law Commission to the thirtieth meeting of the Asian-African Legal Consultative

Conference, Cairo, 22-27 April 1991. Legal Adviser to the Chinese delegation, Disarmament Conference, November 1991 to August 1992.

Member (1987-1993), Rapporteur (1988) and Chairman (1990) of the International Law Commission.

Member, Foreign Economic and Trade Arbitration Commission, China Council for the Promotion of International Trade (1984-1988). Member of the Steering Committee on revision of the Hague Convention of 1907 on Pacific Settlement of International Disputes of the Permanent Court of Arbitration (since 1994).

Taught general course of international law, Foreign Affairs College, Beijing (1958-1963). Taught general course of international economic law, Department of Law, Peking University (1980-1985). Taught general course of international economic law, Foreign Economic Law Training Centre, Ministry of Justice of the People's Republic of China (1988).

Lectures on international financial institutions, National Bureau of Oceanography, the People's Republic of China (1986). Lectures on principles of international law relating to the new international economic order, Department of Law, Peking University (1988). Lectures on protection of private foreign investment (in English), the Hague Academy of International Law, Regional Programme, Beijing (1987). Lecture on the Sino-British Joint Declaration on the question of Hong Kong (in English), Graduate Institute of International Studies, Geneva (1988). Lecture on autonomy in international law and the case of the future Hong Kong Special Administrative Region (in English), International Law Seminar, United Nations Office at Geneva (1988). Lecture on "Nationality of Hong Kong Residents: Present and Future", Graduate Studies, Foreign Affairs College (1988). Lecture on certain issues relating to the legal status of the future Hong Kong Special Administrative Region, Graduate Studies, Department of Law, Peking University (1989). Lectures on international trade regulation, Foreign Service Training Programme of the Ministry of Foreign Affairs of the People's Republic of China (1985 and 1986). Lectures on problems of international economic law, Department of Law, Chinese People's University, Beijing (1987). Chairman, panel discussions on the new international economic order, Beijing Conference on the Law of the World, World Peace through Law (1990). Participant, Symposium on the International Law of Arms Control and Disarmament, held at Geneva (February 1991). Lectures on the International Law Commission, Graduate Studies, Department of Law, Peking University (March 1991). Lectures on selected topics of international economic law, Graduate Studies, Foreign Affairs College (September/October 1991). Participant in the Seminar on the Draft Code of Crimes and International Criminal Jurisdiction, sponsored by the Foundation for the Establishment of an International Criminal Court and International Criminal Law Commission, Talloires, France (May 1991). Lectures on bilateral investment protection agreements (in English), International Law Seminar, United Nations Office at Geneva (June 1992). Participant, Symposium on Teaching, Dissemination and Research of International Law in Developing Countries, Beijing, 1992.

Author of numerous publications on international law.

Judge Carl-August FLEISCHHAUER

(Member of the Court since 6 February 1994)

Born in Düsseldorf, Germany, on 9 December 1930.

Studied at the Universities of Heidelberg, Grenoble and Paris. First State Examination (Law), Heidelberg (1954). Fulbright Scholar, University of Chicago Law School (1954-1955). Junior Barrister Düsseldorf/Heidelberg (1955-1959). Dr. jur., Heidelberg. Second State Examination (Law), Stuttgart (1960). Hague Academy of International Law (1960).

Research Fellow at the Max Planck Institute for International and Foreign Public Law, Heidelberg (1960-1962).

Entered the diplomatic service of the Federal Republic of Germany in 1962. Foreign assignments to Tehran (1962-1963) and Montevideo (1969-1971). Official (1964-1969), Deputy Head (1971) and Head (1972), International Law Section, Legal Department, Federal Foreign Office. Legal Adviser to the Federal Foreign Office and Director-General of the Legal Department (1976-1983).

Member of the Committee of Experts on Human Rights, Council of Europe, Strasbourg (1964-1967). Member of the delegation of the Federal Republic of Germany to the United Nations Conference on the Law of Treaties, Vienna (1968-1969). Observed Sixth Committee during parts of the twenty-third and twenty-fourth sessions of the General Assembly for the then Observer Mission of the Federal Republic of Germany (1968 and 1969). Member of the delegation of the Federal Republic of Germany to the United Nations General Assembly (twenty-eighth to thirty-third sessions as Adviser and Special Adviser, thirty-fourth to thirty-seventh sessions as Alternate Representative) (1973-1982). Alternate Representative and Representative of the Federal Republic of Germany in the Sixth Committee. Representative of the Federal Republic of Germany (1978-1979), on the *Ad Hoc* Committee of the Sixth Committee on the elaboration of the International Convention against the Taking of Hostages. Member of the delegation of the Federal Republic of Germany to the CSCE (Geneva Phase, Helsinki Final Phase) (1974-1975). Member (Vice-Chairman) of the delegation of the Federal Republic of Germany to the Diplomatic Conference on Humanitarian Law applicable in Armed Conflicts, Geneva (1974-1977). Head of the delegation of the Federal Republic of Germany to the United Nations Conference on State Succession in relation to Treaties, Vienna (1977-1978). Member (from 1977 Vice-Chairman) of the delegation of the Federal Republic of Germany to the Third United Nations Conference on the Law of the Sea (1974-1982). Has participated in numerous bilateral meetings and negotiations.

Under-Secretary-General for Legal Affairs, the Legal Counsel of the United Nations (1983-1994).

Was actively engaged, on the side of the Federal Republic of Germany, in the following cases before the Court: *North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands)* (1967-1969); and *Fisheries Jurisdiction (Federal Republic of Germany* v. *Iceland)* (1972-1974). Was actively engaged, on the side of the United Nations, in the advisory cases on the: *Application for Review of Judgement No. 333 of the United Nations Administrative Tribunal* (1984-1987); *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947* (1988); and *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations* (1989).

Honorary member of the Indian Society of International Law (since 1985). Member of the German Society of International Law and, since 1977, of the Council of the Society. Member of the American Society of International Law. Member of the Curatorium of the Max Planck Institute for International and Foreign Public Law, Heidelberg (since 1975). Member of the Heidelberg Society for International and Foreign Public Law. Member of the Société française pour le droit international.

Awarded the German Cross of Merit, First Class, and several foreign decorations (all before 1983).

Author of numerous publications on international law.

Judge Abdul G. KOROMA

(Member of the Court since 6 February 1994)

Born in Freetown, Sierra Leone, on 29 September 1943.

LL.M. (Honours), University of Kiev. Master of Philosophy (International Law), King's College, University of London; Barrister-at-Law, and Honorary Bencher, Honourable Society of Lincoln's Inn, London. LL.D. *honoris causa*, University of Sierra Leone.

Joined the Government service of Sierra Leone in 1964 and the Ministry of Foreign Affairs in 1969. As a Barrister and Legal Practitioner of the High Court of Sierra Leone, was appointed State Counsel and Special Adviser to the Attorney-General and Minister of Justice. Served as Legal Adviser to the Permanent Mission of Sierra Leone to the United Nations. Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the United Nations, New York, while concurrently accredited as High Commissioner of Sierra Leone to Jamaica and Trinidad and Tobago, and Ambassador to the Republic of Korea (Seoul) and Cuba (1981-1985). Served as Ambassador Extraordinary and Plenipotentiary to Belgium, France, Luxembourg and the Netherlands while concurrently accredited to the European Communities and to the United Nations Educational, Scientific and Cultural Organization (Unesco) (1985-1988). Served as Ambassador Extraordinary and Plenipotentiary of Sierra Leone to the Organization of African Unity (OAU) with concurrent accreditation to Ethiopia, Kenya, the United Republic of Tanzania and Zambia (1988-1992).

Played an active role in and contributed to the elaboration of many contemporary international legal instruments. As delegate to the General Assembly, served on the Sixth Committee (Legal) from 1977 to 1994 and was elected Chairman. Also served as delegate of Sierra Leone to the following United Nations bodies: the Special Committee on the Review of the Charter and on the Strengthening of the Role of the Organization; the United Nations Commission on International Trade Law (UNCITRAL); the United Nations Committee on the Peaceful Uses of Outer Space; the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law; served as Chairman of the United Nations Special Committee on the granting of independence to colonial countries and peoples (Committee of 24); headed various United Nations missions on the observance of the exercise of the right of self-determination in various non-self-governing territories.

Represented Sierra Leone at many plenipotentiary conferences, including the United Nations Conference on the Succession of States in respect of Property, Debts and Archives, and was a signatory of the Convention; the Third United Nations Conference on the Law of the Sea (UNCLOS III) and Chairman of the African Group at the Conference. In that capacity, was closely associated with the elaboration of some of the key provisions of the resulting Convention. Was a signatory of the Convention.

Ambassador Extraordinary and Plenipotentiary, Permanent Representative of the Republic of Sierra Leone to the United Nations, New York.

Member of the International Law Commission (1982-1994), and Chairman of the Commission during its forty-third session (1991). Former Chairman of the Committee mandated to elaborate a Draft Statute for an International Criminal Court. As a member of the International Law Commission, was an active participant and contributor to the codification and progressive development of such important international legal instruments as the Draft Code of Crimes against Peace and Security of Mankind; Treaties between States and International Organizations and between International Organizations; the Jurisdictional Immunities of States and their Property; the Law of State Responsibility; the proposed Statute of an International Criminal Court; and the Law of the Non-Navigational Uses of International Watercourses; the draft articles on most-favoured-nation clauses; the draft articles on the status of the diplomatic courier and the diplomatic bag not accompanied by diplomatic courier, and of the optional protocols thereto.

Contributions to other major areas of international law, including the law of self-determination, human rights law, international humanitarian law, and the peaceful settlement of disputes; has written and lectured on these subjects. Served as consultant with the International

Committee of the Red Cross (ICRC) at Geneva on the implementation of and respect for international humanitarian law. Has delivered lectures on all of these topics in many countries, including Cameroon, Canada, China, Ethiopia, Germany, India, Japan, Malta, Norway, Sweden, the United Republic of Tanzania and the United States of America.

Participated in conferences, symposiums and seminars on international law, including those held by the International Ocean Institute (Malta and Halifax, Nova Scotia); the International Law Institute (Hawaii); the International Criminal Jurisdiction (Talloires); the International Institute of Higher Studies in Criminal Sciences; Centre for International Studies, New York University School of Law; the Asian-African Legal Consultative Committee. Also served as external examiner in international law for Ph.D. candidates at the University of Dalhousie, Halifax, Nova Scotia, Canada.

Member of the American Society of International Law and of the Planning Council of the International Ocean Institute (Halifax and Malta). Member and Vice-President of the African Association of International and Comparative Law. Vice-President of the African Society of International and Comparative Law.

The Order of Commander of Rokel was awarded by the Government of Sierra Leone for outstanding professional service (1991).

Author of a thesis on the *Settlement of Territorial and Boundary Disputes in Africa* (University of London). Has also published articles on the law of the sea, the exclusive economic zone, Antarctica, mercenaries, human rights, international humanitarian law, and the law of humanitarian intervention.

Judge Vladlen Stepanovich VERESHCHETIN

(Member of the Court since 26 January 1995; re-elected as from 6 February 1997)

Born in Briansk, Russian Federation, on 8 January 1932.

Graduated (with honours) from the International Law Faculty of the Moscow Institute of International Relations (1954). Post-graduate studies in international law at the same Institute (1955-1958). Candidate of Juridical Sciences (1959). Doctor of Juridical Sciences (1976). Professor of International Law (1982). Maître émérite des Sciences of the Russian Federation (1995).

Staff member of the Presidium of the USSR Academy of Sciences (1958-1967). First Vice-Chairman and Legal Counsel, Intercosmos, USSR Academy of Sciences (1967-1981). Deputy Director and Head of International Law Department of the Institute of State and Law, Russian Academy of Sciences, Moscow (1981-1995).

Member of the United Nations International Law Commission (1992-1995); Chairman of the Commission (1994). Member of the USSR delegations to the United Nations Committee on the Peaceful Uses of Outer Space and its Legal Sub-committee (1979-1990).

Member of the Permanent Court of Arbitration (1984-1995).

Has given lecture courses and individual lectures on the theory of international law, the peaceful settlement of international disputes, the law of the sea, the law of outer space and the law of international organizations at the Institute of International Relations, the Diplomatic Academy and the University of Friendship of Peoples (Moscow), the Juridical Institute (Ekaterimburg), the Institute of International Public Law and International Relations (Thessaloniki), the European University Institute (Florence), the Universities of Akron and Mississippi (United States) and the Institute of International Private and Public Law (The Hague). Has presented papers on different international law subjects at many international congresses and conferences.

Vice-President of the Russian (formerly Soviet) Association of International Law (1985-1997). Chairman of the Scientific Council on International and Comparative Law at the Institute of State and Law, Russian Academy of Sciences (1981-1995). Vice-President of the Russian (formerly Soviet) United Nations Association (since 1984). Vice-President (1978-1995), Honorary Director of the International Institute of Space Law. Member of the Policy and Finance Committee of the International Law Association (since 1990). Member, Board of Directors of the International Institute of Air and Space Law, Leiden University (since 1995). Member (since 1977), Trustee (1985-1996) of the International Academy of Astronautics.

Member of the editorial and advisory boards of the *Russian Law Journal* and the *Journal of Space Law* (United States).

Orders and awards: "Badge of Honour" (1967), "Friendship of Peoples" (1975), "October Revolution" (1981). Honorary Awards of the German Academy of Sciences at Berlin (1978), the Bulgarian Academy of Sciences (1979), the International Academy of Astronautics (1987, 1994), the International Institute of Space Law (1995), the Russian Association of International Law (1995).

Author of more than 150 works and articles on international law published in Russia and abroad, including seven-volume *Course of International Law*, Moscow, 1989-1993 (Deputy Editor-in-Chief of the course and co-author).

Judge Rosalyn HIGGINS

(Member of the Court since 12 July 1995)

Born in London on 2 June 1937.

Dame Commander of the British Empire (1995).

B.A. (Cantab) 1st Class (1959); LL.B. (Cantab) 1st Class (1962); J.S.D. (Yale) (1962); M.A. (Cantab) (1962); Honorary Doctorates of the Universities of Paris XI (1980), Dundee (1992), Durham and the

London School of Economics (1995), Cambridge, Kent, Essex, Sussex, Greenwich and London City University (1996), Birmingham, Leicester and Glasgow (1997). Awarded the Yale Law School Medal of Merit (1997). Manley O. Hudson Medal (1998).

Minor Scholar, Girton College, Cambridge (1957); Major Scholar, Girton College, Cambridge (1958); Campbell Scholarship for Professional Studies (1957); Montefiore Award for academic and general distinction (1958); Bryce-Tebbs Scholar, Cambridge (1958); Commonwealth Fund (Harkness) Fellowship (1959-1961); Graduate Fellow, Yale Law School (1959-1961).

United Kingdom Interne, Office of Legal Affairs, United Nations (1958); Visiting Fellow, Brookings Institution, Washington, DC (1960); Junior Fellow in international studies, London School of Economics (1961-1963); Staff specialist in international law, Royal Institute of International Affairs (1963-1974); Visiting Fellow, London School of Economics (1974-1978); Professor of International Law, University of Kent at Canterbury (1978-1981); Professor of International Law, University of London (1981-1995).

Queen's Counsel (1986); Bencher of the Inner Temple (1989).

Queen's Counsel and Bencher of the Inner Temple, practising in public international law and petroleum law. Practice in the English courts and before various international tribunals, including the International Court of Justice, the European Court of Human Rights and the Court of the European Communities.

Counsel for the International Tin Council in a series of cases in the United Kingdom.

Counsel in the following cases in the International Court of Justice: *Territorial Dispute (Libyan Arab Jamahiriya/Chad); East Timor (Portugal* v. *Australia); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom); Gabčikovo-Nagymaros Project (Hungary/Slovakia).*

President, Tribunal of the International Centre for Settlement of Investment Disputes *(Amco* v. *Indonesia).*

Member of the Committee on Human Rights under the International Covenant on Civil and Political Rights (1984-1995); Special Rapporteur for new cases (1989-1991).

Associé of the Institut de droit international (1987), Member (1991); Chairman, Public International Law Advisory Board, British Institute for International and Comparative Law (since 1992); Hon. Vice-President of the American Society of International Law (1993).

Rockefeller Foundation Fellowship (1961); British Academy Award (1977-1978); Volumes I and II of *United Nations Peacekeeping* received the 1971 Certificate of Merit of the American Society of International Law; *Problems and Process* received the 1995 Certificate of Merit of the American Society of International Law; Wolfgang Friedman Medal for services to International Law, Columbia University (1985); Harold Weil

Medal, New York University (1995); Ordre des Palmes Académiques (1988); Honorary Life Membership Award, American Society of International Law (1992).

Member of the Board of Editors of the *American Journal of International Law* (1975-1985), the *British Year Book of International Law* and of the *Journal of Energy and Natural Resources Law*.

Delivered general course on international law at the Hague Academy of International Law (1991).

Author of *The Development of International Law through the Political Organs of the United Nations*, 1963; *Conflict of Interests: International Law in a Divided World*, 1965; *The Administration of the United Kingdom Foreign Policy through the United Nations*, 1966; *UN Peacekeeping: Documents and Commentary*, Vol. I, *Middle East*, 1969, Vol. II, *Asia*, 1970, Vol. III, *Africa*, 1980, Vol. IV, *Europe*, 1981; *Law in Movement – Essays in Memory of John McMahon* (joint editor with James Fawcett), 1974; "The Taking of Property by the State: Recent Developments in International Law", *Recueil des cours*, Hague Academy of International Law, Vol. 176, 1982; *Liberté de circulation des personnes en droit international* (joint editor with Maurice Flory), 1988; "International Law and the Avoidance, Containment and Resolution of Disputes (General Course on Public International Law)", *Recueil des cours*, Vol. 230, 1991; *Problems and Process: International Law and How We Use It*, 1994; and of various works and articles on international legal theory, United Nations law, the use of force, State and diplomatic immunities, human rights and international petroleum law.

Judge Gonzalo PARRA-ARANGUREN

(Member of the Court since 28 February 1996)

Born in Caracas, Venezuela, on 5 December 1928.

Degree in juridical and political sciences *(summa cum laude)* at the Central University of Venezuela (1950); postgraduate course in comparative law and jurisprudence (LL.M.) at the Inter-American Law Institute, New York University (1951-1952); Doctor of Law *("doktor iuris") (cum laude)* at the Ludwig-Maximileans University, Munich (1955).

Professor at the Central University of Venezuela, Caracas, teaching private international law (1956-1996); has taught that same course at Andrés Bello Catholic University in Caracas (1957-1996).

Judge in the Second Course of First Instance (commercial matters), Federal District and State of Miranda, Caracas (1958-1971); first associate judge (1988-1992) in the Chamber of Cassation (civil, commercial and labour matters) of the Supreme Court of Justice; alternate judge of the same Chamber (1992-1996). Has acted as arbitrator, both in Venezuela and abroad, in the latter case regarding international commercial matters of a private nature; on several occasions has testified in foreign courts as an expert on Venezuelan law.

Member of the commission of enquiry appointed in 1985 by the Governing Body of the International Labour Office to consider the implementation by the Federal Republic of Germany of the ILO Discrimination (Employment and Occupation) Convention (1958, No. 111); the report was submitted in 1986, but he did not endorse its recommendations.

Member of the Permanent Court of Arbitration (since 1985).

Member of the legislative committees that drafted the section on Venezuelan nationality in connection with the Constitution that was approved in 1961; the draft law on private international law (1963) and its subsequent revision in 1965; and the revised draft sections of the Code of Commerce dealing with credit instruments and bankruptcy respectively (1963-1965).

Member of the legal advisory committee of the Ministry of Foreign Affairs (1984-1996) and of the legal advisory council of the National Congress (1990-1996).

Member of the Institut de droit international (elected in 1979).

Member of the Academy of Political and Social Sciences of Caracas (since 1966) and its President (1993-1995). Corresponding Member of the Uruguayan International Law Association (1978); Corresponding Member of the Argentine International Law Association (1981); Corresponding Member of the National Academy of Law and Social Sciences of Córdoba, Argentine Republic (1982); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation of Granada, Spain (1994); Corresponding Member of the Mexican Academy of Jurisprudence and Legislation corresponding to that of Spain (1994); Honorary Fellow of the Royal Academy of Jurisprudence and Legislation, Madrid (1994); Member of the "Deutsche Gesellschaft für Völkerrecht" (1998).

Member of the Governing Council of the International Institute for the Unification of Private Law (UNIDROIT) (1982-1993); elected again in 1996.

Former Member of the editorial board of the *Revista del Colegio de Abogados del Distrito Federal*, Caracas; the editorial board of the *Revista de la Facultad de Derecho de la Universidad Católica Andrés Bello*, Caracas (since its establishment). Correspondent for the *Netherlands International Law Review* (since 1987).

Taught the General Course on Private International Law at the Hague Academy of International Law (1988), and has given lectures in various countries: in Curaçao, at the commemoration of the centenary of the Introduction of the Civil Code and the Installation of the High Court of Justice (1969); at the course on international law (Rio de Janeiro, 1978, 1979, 1982, 1988, 1992 and 1997), organized by the Inter-American Juridical Committee and the Brazilian Foundation "Gétulio Vargas"; at the Hague Academy of International Law, on "Recent Developments of Conflict of Laws Conventions in Latin America" (1979); at the "Journeys of International Law" (Salamanca, November 1992); at the seminar on "Principles for the International Commercial Contracts", prepared by the International Institute for the Unification of Private Law (UNIDROIT) (Rome, December 1993); at the working meeting on the "Reviews and Books for the Unification of the Latin-American Juridical System" (Rome, December 1993); at the Eighth World Conference of the International Society of Family Law (Cardiff, June 1994); at the Congress on Children on the Move, organized by the Dutch committee of the International Year of the Family in collaboration with the Hague Conference on Private International Law (The Hague, October 1994); at the seminar on "Adoption, an Act of Love", organized by the Colombian Institute for Family Welfare (Bogotá, June 1995); at the Symposium "Il nuovo Diritto Internazionale Privato Italiano", University of Padua (1996); at the Symposium "Globalization of Child Law: The Role of the Hague Convention" (The Hague, September 1997); and at the "Civil Law Congress", organized by the Bar Association of Puerto Rico (1998).

Co-Chairman of the Committee on Private International Law, during the Sixteenth Session of the Inter-American Lawyers Federation (Caracas, 1969). Reporter at the "First Latin-American Journeys of International Law", at the Andrés Bello Catholic University (Caracas, 1979); at the Twelfth Congress of the Hispano-Luso Institute of International Law (Merida, Venezuela, 1980); at the International Seminar on Adoption (Caracas, 1996); and at the Inter-American Congress "Towards a New Regulation of the International Contracts" (Valencia, Venezuela, 1996).

Representative for Venezuela at the International Association of Legal Science and the German Society for Comparative Law (Treveris, Federal Republic of Germany, 1961); and at the third meeting of the Joint Venezuelan-Spanish Commission (Madrid, 1974).

Representative for Venezuela at the first Inter-American Specialized Conference on Private International Law (CIDIP-I, Panama, 1975), being Vice-Chairman of the Second Committee; at the second such Conference (CIDIP-II, Montevideo, 1979), being Chairman of the Second Committee; at the third and fourth such Conferences (held, respectively, CIDIP-III in La Paz, Bolivia, 1984, and CIDIP-IV in Montevideo, 1989), being Chairman of the Second Committee; and at the fifth such Conference (CIDIP-V, Mexico City, 1994), being Chairman of the First Committee.

Member of the Committees of Experts that met in Washington, D.C., in 1980 in preparation for the Third Inter-American Specialized Conference on Private International Law (CIDIP-III); in Tucson, Arizona, 1993, in preparation for the Fifth Inter-American Specialized Conference on Private International Law (CIDIP-V); and in Washington, D.C. (1995, 1996) to prepare the Inter-American Convention against Corruption.

Representative of Venezuela at the Hague Conference on Private International Law: thirteenth session (1976-1977); fourteenth session (1980); fifteenth session (1984); special session (1985); sixteenth session (1988); and the seventeenth session (1993); Member of the special working group and Special Commission (April and October 1994, respectively) to study the application of the Convention of 1993 to minors who are refugees; and of the Special Commission (second meeting, June 1995) on the Protection of Minors and Incompetent Adults and of the Special Commission on maintenance obligations (November 1995). Elected one of the five Vice-Chairmen at the fifteenth and sixteenth sessions.

Rapporteur of the Special Commission of the seventeenth session of the Hague Conference on Private International Law and, in pursuance of these functions, prepared the preliminary report (1992) and the explanatory report on the Convention on Protection of Children and Co-operation in respect of Intercountry Adoption on 29 May 1993.

Author of the following books: *Die Regel "Locus Regit Actum" und die Formen der Testamente*, 1955; *La Nacionalidad Venezolana Originaria*, Vols. I and II, 1964; *La Constitución de 1830 y los Venezolanos por Naturalización*, 1969; *Codificación del Derecho Internacional Privado en América*, Vol. I, 1982, Vol. II, 1998; *La Nacionalidad Venezolana: I. Antecedentes Históricos*, 1983; *La Influencia del Matrimonio sobre la Nacionalidad de la Mujer en la Legislación Venezolana*, 1983; *La Nacionalidad Venezolana: II. Problemas Actuales*, 1983; *Monografías Selectas de Derecho Internacional Privado*, 1984; *Ensayos de Derecho Procesal Civil Internacional*, 1986: *Curso General de Derecho Internacional Privado (Problemas Selectos)*, 1991; *Curso General de Derecho Internacional Privado. Problemas Selectos y Otros Estudios*, 1992; *Curso General de Derecho Internacional Privado. Problemas selectos y Otros Estudios*, Tercera Edición Revisada, 1998; *Estudios de Derecho Procesal Civil Internacional*, 1998; *Escritos Diversos de Derecho Internacional Privado*, 1998; *Estudios de Derecho Mercantil Internacional*, 1998.

Has published numerous articles on the law of nationality, private international law and international civil procedural law in Venezuelan and foreign journals.

Judge Pieter Hendrik KOOIJMANS

(Member of the Court since 6 February 1997)

Born at Heemstede, Netherlands, on 6 July 1933.

Econ. B. (1955), LL.M. (with honours) (1957), Dr. Iuris, Free University, Amsterdam (with honours) (1964).

Professor of Public International Law and European Law, Free University, Amsterdam (1965-1973). Professor of Public International Law, University of Leiden (1977-1992, 1995-1997).

State Secretary for Foreign Affairs of the Netherlands (1973-1977). Minister for Foreign Affairs of the Netherlands (1993-1994).

Member of the Netherlands delegation to the General Assembly of the United Nations (1967, Sixth Committee), Vice-Chairman (1973-1977), Chairman (1993). Head of the Netherlands delegation to various sessions of the Third United Nations Conference on the Law of the Sea (1974-1977), to the First Review Conference of the Non-Proliferation Treaty (1975), to the Geneva Diplomatic Conference on humanitarian law in armed conflict (1975) and to the United Nations Conference on *Apartheid* (1977). Head of the Netherlands delegation to the United Nations Commission on Human Rights (1982-1985, 1992).

Chairman of the United Nations Commission on Human Rights (1984-1985). Special Rapporteur of the United Nations Commission on Human Rights on Questions relevant to Torture (1985-1992).

Member of various United Nations and Conference on Security and Co-operation in Europe (CSCE) missions to the former Yugoslavia (1991-1992).

Member of the Permanent Court of Arbitration. Member and former Chairman of the Netherlands Branch of the International Law Association. Associate Member of the Institut de droit international. Chairman of the Supervisory Board of the Netherlands Research Center for African Studies. Vice-President of the European Cultural Foundation.

Member of the Board of Editors of the *Netherlands International Law Review*.

Former positions: Chairman of the Board of the Carnegie Foundation. Chairman of the Administrative Council of the Hague Academy of International Law. Chairman of the Board of the Netherlands Disaster Relief Agency. Chairman of the Supervisory Board of the Netherlands Refugee Foundation. Chairman of the Netherlands Foundation (established by all political parties) for support to the democratic institutions of the new South Africa. Vice-Chairman of the Dutch Evangelical Party (merged in 1980 with two other parties into the Christian Democratic Party). Chairman of the Foreign Affairs Committee of the Christian Democratic Party. Member of the Steering Committee of the International Crisis Group. Member of the Advisory Committee on Questions of International Law (Dutch Ministry of Foreign Affairs). Member of the Advisory Council on Questions of Peace and Security (Dutch Ministries of Foreign Affairs and Defence). Chairman of the Board of the Institute of Social Studies (postgraduate school on questions of development). Chairman of the Board of the Netherlands Institute of Peace-related Issues. Vice-Chairman of the Advisory Commission on Questions of Aliens (quasi-judicial body, Dutch Ministry of Justice). Chairman of the Advisory Committee on Questions of Disarmament (Dutch Ministry of Foreign Affairs). Member of the Advisory Defence Council (Dutch Ministry of Defence). Member of various advisory commissions on the Codification of the Law of Aliens and of Refugees (Dutch Ministry of Justice).

Lecturer at the Hague Academy of International Law (1976 and 1991).

Author of numerous publications on international law.

Judge Francisco REZEK

(Member of the Court since 6 February 1997)

Born 18 January 1944 in Cristina, Minas Gerais (Brazil).

LL.B (1966), D.E.S. (1967): Federal University of Minas Gerais (Belo

Horizonte, MG). Docteur de l'Université de Paris-Sorbonne (1970). Diploma in Law, University of Oxford (1979).

Extension courses and research programmes: Harvard University (1965); the Hague Academy of International Law (1968, 1970).

Professor of International Law and Constitutional Law at the University of Brasilia (1971-1997). Chairman of the Department of Law (1974-1976). Dean of the Faculty of Social Studies (1978-1979). Professor of International Law at Rio Branco Institute (the official diplomatic school of Brazil) (1976-1997). Lecturer at the Hague Academy of International Law (1986) and at the Institute of International Public Law and International Relations, Thessaloniki (1989).

President of conferences, lecturer and examiner in contests for professorship in the major Brazilian universities (since 1971).

Attorney of the Republic before the Supreme Court of Brazil (1972-1979); Deputy Attorney-General of the Republic (1979-1983). Justice of the Supreme Court of Brazil, appointed by the President with approval of the Senate, March 1983, at the age of 39. Resigned in March 1990. Appointed again in April 1992 for life, retired in 1997.

Foreign Minister of Brazil (from March 1990 to April 1992).

Member of the Permanent Court of Arbitration (since 1987).

Published works: *The Law of Treaties* (in Portuguese), 1984; *Public International Law* (in Portuguese), 1st ed., 1989, 7th ed., 1997; *Droit des traités: particularités des actes constitutifs d'organisations internationales*, 1968; *La conduite des relations internationales dans le droit constitutionnel latino-américain*, 1970; "Aspectos elementares do Estatuto da Igualdade", in *Boletim do Ministério da Justica*, No. 277, 1978; "Reciprocity as a Basis of Extradition", in *British Year Book of International Law*, Vol. 52, 1981; "Protection of the Victims of Armed Conflicts: Wounded, Sick and Shipwrecked", in *International Dimensions of Humanitarian Law*, Unesco, Institut Henry Dunant, 1988 (preceded by a French edition, 1986); "Le droit international de la nationalité", Hague Academy of International Law, *Recueil des cours*, Vol. 198, 1986; "Sur le fondement du droit des gens", in *Essays in Honour of Krzysztof Skubiszewski*, 1996; "A New International Order", in *Review of International Affairs*, 1990; "Una política comercial para los nuevos tiempos", in *Revista Latinoamericana de Integración*, 1991; "Imunidade do Estado estrangeiro à jurisdição local", in *Hector Gross Espiel liber amicorum*, 1997.

About 45 monographs and other legal studies published in specialized periodicals in Brazil. More than 300 advisory opinions pronounced on behalf of the Public Ministry in cases put before the Supreme Court of Brazil and published in its quarterly Report (1972-1983). More than 500 decisions or dissenting opinions pronounced in the Supreme Court of Brazil and published in its quarterly Report and in other periodicals (1983-1995).

II. JUDGES *AD HOC*

Article 7, paragraph 3, of the Rules of Court provides that judges *ad hoc* are to take precedence after the Members of the Court and in order of seniority of age.

Judge *ad hoc* Sir Robert Yewdall JENNINGS

(Judge *ad hoc* in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*)

Born on 19 October 1913.

Studied at Cambridge University, obtaining the degrees of M.A. and LL.B. and subsequently at Harvard University (Choate Fellow, 1936-1937). Honorary Doctor of law, Universities of Hull (1987), Saarland (1988), Rome (1990), Cambridge (1993), Leicester and Oxford (1996).

Assistant Lecturer in Law, London School of Economics (1938-1939) and Honorary Fellow (1994). Lecturer (1946-1955) and subsequently Whewell Professor of International Law in the University of Cambridge (1955-1982). Reader in International Law to the Inns of Court Council of Legal Education (1959-1970).

Fellow (since 1939), Senior Tutor (1949-1955) and sometime President of Jesus College, Cambridge.

Called to the Bar of Lincoln's Inn (1943); Honorary Bencher of Lincoln's Inn (since 1970); Queen's Counsel (since 1969).

Counsel in the *Rio Encuentro, Beagle Channel,* Franco-British *Continental Shelf Delimitation* and Dubai-Sharjah *Frontier Delimitation* arbitrations; appeared as Counsel before the Court in the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* case.

Sometime legal consultant to a number of Governments (Argentina, Bangladesh, Brunei, Canada, Sudan, Venezuela, Sharjah, etc.).

Judge *ad hoc*, European Court of Human Rights, in *X* v. *United Kingdom* (1982).

Member of the Permanent Court of Arbitration (since 1982).

President of the Arbital Tribunal in the *Eritrea-Yemen Arbitration* (since 1996).

Member (1982-1995) and President (1991-1994) of the International Court of Justice; member of its Chamber formed to deal with the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1986-1992) and its Chamber formed to deal with the case concerning *Elettronica Sicula S.p.A. (ELSI)* (1987-1989).

Public International Law Editor of the *International and Comparative Law Quarterly* (1957-1959). Editor of the *British Year Book of International Law* (1959), first with Sir Humphrey Waldlock and then as senior editor from 1974 to 1982.

Associate (1957), Member (1967), Vice-President (1979), President (1981) and Honorary Member (1985) of the Institute of International Law. Honorary Life Member of the American Society of International Law and of the Indian Society of International Law.

Received the Manley Hudson Medal of the American Society of International Law.

Gave the general course on principles of international law at the Hague Academy of International Law (1967).

Author of various books, articles and monographs including *Oppenheim's International Law* (9th ed.), Vol. I, with Sir Arthur Watts.

Judge *ad hoc* Kéba MBAYE

(Judge *ad hoc* in the case concerning the
Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. *Nigeria)*)

Holder of the diploma of advanced studies in private law (Paris); holder of the certificate of the Ecole nationale de la France d'outre-mer (Magistrature Department).

Honorary First President of the Supreme Court.

Former President of the Constitutional Council of Senegal.

Former lecturer at the Faculty of Law of the University of Dakar and at the Ecole nationale d'administration of Senegal (1967-1978).

Doctor *honoris causa* of the Universities of Lille II, Savoie (France), Bhopal (India) and Emory (United States of America).

Member of the International Court of Justice (6 February 1982 to 5 February 1991); Vice-President of the Court (1987 to 1991); formerly judge *ad hoc* in the case concerning the *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal)*.

Has been a member of various United Nations bodies and has in particular participated as member and chairman in the work of the Commission on Human Rights, the Commission responsible for seeking the settlement of any dispute between States Parties to the Convention against Discrimination in Education, the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, and of the *Ad Hoc* Working Group of Experts to investigate violations of human rights in southern Africa; former member of the ILO Committee of Experts.

Vice-Chairman of the Executive Committee of the International Institute of Human Rights (René Cassin Foundation); Honorary Member of the International Institute of Humanitarian Law; former Chairman of the International Commission of Jurists; Honorary President of the World Federation of United Nations Associations; former President of the International Academy of Human Rights; Member of the Société française pour le droit international; Vice-President of the Institut international de droit d'expression française; was General Rapporteur at the Organization of African Unity Conference which adopted the African Charter on Human and Peoples' Rights.

Honorary Member of the Belgian Académie royale des sciences d'outre-mer; Member of the International Academy of Comparative Law, of the International Law Association, of the Académie française des sciences d'outre-mer and of the Curatorium of the Hague Academy of International Law; Honorary Member of the Institute of International Law; Vice-Chairman of the ICC International Court of Arbitration; President of the Court of Arbitration for Sport and of the International Council of Arbitration for Sport.

Author of numerous publications concerning the law of Senegal, the law of sub-Saharan Africa, human rights in general, and in particular the right to development, the law of sport. Gave a lecture on "'Interest to Act' before the International Court of Justice" at the Hague Academy of International Law (1988).

Judge *ad hoc* François Ernest Robert Rigaux

(Judge *ad hoc* in the case concerning *Oil Platforms*
(Islamic Republic of Iran v. *United States of America)*)

Born in Ixelles, Belgium, on 26 March 1926.

Bachelier of Philosophy (1945); Doctor of Law (1947); Licencié in Criminal Science (1948); Agrégé in Law (1956); Doctor *honoris causa* of the University of Dijon (1981).

Senior Lecturer (1955), Assistant Professor (1959) and Professor (1961) in the Faculty of Law of the Université catholique de Louvain. Subjects taught: civil law (persons and property); private international law; protection of the individual and of privacy. Dean of the Faculty of Law (1980-1984), and President of the International Law Department of the Université catholique de Louvain. Professor emeritus at the Université catholique de Louvain (1991) and Visiting Professor, Faculty of Law (1991-1992; 1992-1993). Visiting Professor, Catholic University, Brussels (1993-1994 and 1994-1995) and University Faculties at Saint Louis, Brussels (since 1995).

As well as courses and lectures at various foreign universities, particularly in Florence, Bremen, Barcelona, Caracas, Caceres, Geneva, Hamburg, Madrid, Milan, Munich, Nancy, Regensburg, Rio de Janeiro, Würzburg and Baton Rouge, gave courses as follows: a course at the Hague Academy of International Law on change of connecting factors in private international law (1966), published in the collection *Reuceil des cours*; the General Course on Private International Law in 1989 on "Les situations juridiques individuelles dans un système de relativité générale", also published in the *Recueil des cours*; Visiting Professor at the Université Lovanium, Kinshasa (1970); holder of the Francqui Professorship at the

Université libre de Bruxelles (1975-1976 academic year), where he taught a course entitled "Droit public et droit privé dans les relations internationales" (published in 1977); course at the Institut des hautes études internationales (Paris, 1978-1979 academic year) on the new international economic order (published in the Institute's "collection des cours et travaux"); Director of Studies of the 1979 summer programme of the Institut universitaire de Luxembourg on the impact of the EEC on the private international law of its member States (work published in 1980). Holder of the Francqui Professorship in the Faculty of Law of the Katholieke Universiteit Leuven (Catholic University of Louvain) (1980-1981 academic year), where he taught a course on "Le pluralisme juridique". Holder of the Francqui Professorship at the Facultés universitaires Notre-Dame de la Paix, Namur (1991-1992 academic year), where he taught a course on "La liberté de la vie privée". Holder of the Francqui Professorship at the University of Ghent (1996-1997) where he taught a course on "Le règlement juridictionnel des conflits de normes". Invited to give lectures at the Tunis Faculty of Law (1988 and 1989), the Florence Faculty of Political Science (1988), the Faculty of Law of the Université d'Aix-Marseille (1991-1992) and the Faculty of Law of Louisiana State University, Baton Rouge (1994-1995).

Served on Ph.D. examining boards at the Universities of Antwerp, Barcelona, Dijon, Ghent, Lyons, Nice, Paris, Reims and Tunis.

Member of the Bar of Brussels (1947-1954). Deputy Royal Procurator (1954-1963). At present, Honorary Deputy Royal Procurator. Assessor, Legislation Section of the Conseil d'Etat (1966-1991), authorized by Royal Order to bear the honorary title of that function.

Member of the Constitutional Court of the Federation of Bosnia and Herzegovina.

Member of the Institute of International Law (and Third Vice-President from 1983 to 1985). Member of the Institut belge de droit comparé. Former President of the Société belge de droit international. Member of the governing board of the Société des amis d'Henri Rolin. Former President of the scientific council of the *Revue belge de droit international*. (Corresponding) Member of the Section des sciences morales et politiques, classe des lettres of the Académie royale de Belgique (January 1988). (Associate) Member of the International Academy of Comparative Law.

Winner of the Prix des Anciens Présidents et du *Journal des tribunaux* awarded to a first-year trainee (1947-1948 judicial year). Winner of the Emile van Dievoet Prize (period 1951-1955) for his work entitled: *La théorie des qualifications en droit international privé.* Winner of the "Legatum Visserianum" Prize awarded in January 1962 by the College of Curators of Leiden University for a dissertation on Representation in Comparative Private International Law, submitted on 1 March 1959. Winner of the José A. Negri Prize awarded by the Federal Council of Argentine Notaries for the collective work "Les régimes matrimoniaux et les successions en droit international privé", edited by him in 1961 on the occasion of the Seventh International Congress of Latin Notaries.

Officer of the Order of Leopold (1968), Commander of the Order of the Crown (1977), Grand Officer of the Order of Leopold II (1988).

Principal publications: *La théorie des qualifications en droit international privé*, 1956; *Le statut de la représentation en droit international privé*, 1959; *La nature du contrôle de la Cour de cassation*, 1966; *Précis de droit international privé*, 1968; *Précis de droit des personnes*, Vol. I: *Les relations familiales*, 1971, updated with the collaboration of M. T. Meulders-Klein, 1978; *Introduction à la science du droit*, 1974; *Droit public et droit privé dans les relations internationales* (publication of the *Revue générale de droit international public*, No. 26), 1977; *Droit international privé*, Vol. I: *Théorie générale*, 1977, revised 2nd ed., 1987; Vol. II: *Droit positif belge*, 1979, revised 2nd ed. with the collaboration of Marc Fallon, 1993; *Pour un autre ordre international*, Droit économique 2, Institut des hautes études internationales de Paris, 1979-1980; *Derecho internacional privado, parte general*, translation and adaptation to Spanish law of Volume I of *Droit international privé*, by Mrs. A. Borras Rodríguez, 1985; *La Carta di Algieri*, translated by Anna Lo Monaco, 1988; "Les situations juridiques individuelles dans un système de relativité générale (Cours générale de droit international privé)", *Recueil des cours*, Hague Academy of International Law, Vol. 213, 1989; *Pour une déclaration universelle des droits des peuples*, 1990; *La protection de la vie privée et des autres biens de la personnalité*, 1990; *La vie privée, un liberté parmi les autres?*, 1992; *La loi des juges*, 1997.

Judge *ad hoc* Krzysztof SKUBISZEWSKI

(Judge *ad hoc* in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*)

Born in Poznań, Poland, on 8 October 1926.

Faculty of Law and Economic Sciences, University of Poznań (*magister juris*) (1945-1949); Doctor *juris* (1950); European University Centre (Diploma of European Higher Studies), University of Nancy, France (1957); Harvard School of Law (Master of Law) (1957-1958); "Habilitation" in International Law at the Adam Mickiewicz University in Poznań (1960); Doctor *honoris causa* of the Universities of Ghent, Liège, Turin, Mainz and Geneva.

Assistant teacher and lecturer, Faculty of Law, Adam Mickiewicz University in Poznań (1948-1960); Dozent, Faculty of Law, Adam Mickiewicz University in Poznań (1961-1973), Pro-Dean at that Faculty (1961-1963); Visiting Scholar, School of International Affairs, Columbia University, New York (1963-1964); Visiting Professor at the Law Faculty, University of Geneva (1971 and 1979); Visiting Fellow, All Souls College, Oxford (1971-1972); Professor, Institute of Law, Polish Academy of Sciences, Warsaw (1973-1996); Honorary Professor, University of Bucharest.

Lectures at the Universities of Nottingham and London; International Faculty of Comparative Law in Strasbourg; Graduate Institute of International Studies at Geneva; College of Europe at Bruges, Belgium, and also the Clubs of International Law of Harvard, Duke and Oxford Universities; Max-Planck Institute in Heidelberg; Universities of Vienna and Graz; Faculty of Law, University of Paris II; Royal Institute of International Affairs, Chatham House; All Souls College, Oxford; Institut d'Etudes Politiques de Paris; Free University, Berlin; also Hersch Lauterpacht Lectures, Cambridge (1985); Cyril Foster Lecture, Oxford (1990); Lord Wilberforce Lecture (1990); Hugh Gaitskell Lecture (1991); and numerous other lectures in European, American, Australian and Asian Societies of Political and Legal Sciences or International Relations.

Member of "Solidarity" (since 1980); Member of the Primate of Poland Social Council (1981-1984); Member of the Co-ordinating Committee of the Poland-Federal Republic of Germany Forum, representing the secretariat of the Polish Episcopate (1984-1989); Member of the Consultative Council to the Chairman of the Council of State of the Polish People's Republic (1986-1989); Minister for Foreign Affairs (1989-1993).

Member (since 4 December 1993) and President (since 16 February 1994) of the Iran-United States Claims Tribunal.

Judge *ad hoc* in the International Court of Justice in the case concerning *East Timor (Portugal* v. *Australia)*.

Co-founder and first Chairman of the Council on Foreign Policy (Warsaw, 1996).

Member of the Academies of Sciences of Warsaw and of Cracow; Correspondent, Institut de France; Member of the Society of Arts and Sciences, Poznań; Western Institute, Poznań; International Law Association (Polish branch); Institut de droit international (First Vice-President, 1995-1997); American Society of International Law (Honorary Member, 1991); Société française pour le droit international; Deutsche Gesellschaft für Völkerrecht; Oxford Society; Codrington Club; Honorary Bencher, Gray's Inn. Curator, United Nations Student Association, Poznań (1960-1973).

Gold Cross of Merit (1977); Knight's Cross of the Order of Polonia Restituta (1986); Grand Cross of the same Order (1993); Cavaliere di Gran Croce, Ordine Piano (Holy See, 1991); Grand Officier de la Legion d'honneur (1991); Grosskreuz des Verdienstordens der Bundesrepublik Deutschland (1991); Order of Diplomatic Merit of the Republic of Korea (1991); Cross of Merit of the Republic of Hungary (1994).

Alexander von Humboldt Foundation research prize (1984); Wartburg Prize, Germany (1992).

Author of four books and some 100 articles in law journals or collections of studies, also chapters in collective books and reports, on legal aspects of Polish-German relations, in particular the border between the two countries; use of force by States and law of armed conflicts; law of international organizations; theory of international law, including its sources; rights of individuals.

Judge *ad hoc* Sir Elihu LAUTERPACHT

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*)

Born in London, United Kingdom, on 13 July 1928.

Cambridge University, B.A. (1949); L.L.M. (1950); Whewell Scholar in International Law (1950).

Lecturer (1955) and Reader (1982) in International Law, University of Cambridge.

Director of the Research Centre for International Law (1983-1995) and Honorary Professor of International Law, University of Cambridge.

Fellow of Trinity College, Cambridge (1953).

Barrister (1950); Queen's Counsel (1970); Bencher of Gray's Inn.

Commander of the British Empire (C.B.E.) (1989).

Knight (1998).

Legal Adviser of the Australian Department of Foreign Affairs (1975-1977); deputy leader of the Australian delegation to the United Nations General Assembly (1975-1977); deputy leader of the Australian delegation to the United Nations Law of the Sea Conference (1975-1977).

Counsel or advocate in numerous cases before the International Court of Justice, the European Commission of Human Rights, the Iran-United States Claims Tribunal, various international arbitral tribunals and national courts; counsel and adviser to many Governments and corporations.

Member of the Panel of Arbitrators of the International Centre for the Settlement of Investment Disputes (since 1974); Member of the Panel of Arbitrators of the Dispute Settlement Centre of the International Energy Agency (since 1980).

Chairman of the East African Common Market Tribunal (1972-1975); Member (since 1979) and President (since 1996) of the World Bank Administrative Tribunal; Chairman of the Asian Development Bank Administrative Tribunal (1992-1995); Chairman of the Dispute Settlement Panel under Chapter XX of the North American Free Trade Agreement (1996); President of an International Centre for the Settlement of Investment Disputes (Additional Facility) Arbitration Tribunal established pursuant to Chapter XI of the North American Free Trade Agreement (since 1997); Member of an ICSID Arbitration Tribunal (since 1997); Chairman, Panel No. 3 of the United Nations Compensation Commission (since 1998).

Member of the Institute of International Law; Honorary Member of the American Society of International Law.

Director, English-speaking Section, Research Centre of the Hague Academy of International Law (1959 and 1960); delivered course of lectures at the Hague Academy of International Law on "The Development of the Law of International Organization by the Decisions of International Tribunals" (1976) and on "Principles of International Litigation" (1996).

Editor of the *International Law Reports* (since 1960) and founder editor of *British Practice in International Law.*

Publications include *Aspects of the Administration of International Justice* (1991); "The Development of the Law of International Organization by the Decisions of International Tribunals", Hague Academy of International Law, *Recueil des cours* (1976); *Jerusalem and the Holy Places* (1968); and many articles.

Judge *ad hoc* Marc LALONDE

(Judge *ad hoc* in the case concerning *Fisheries Jurisdiction (Spain* v. *Canada)*)

Born in Ile Perrot, Quebec, Canada, on 26 July 1929.

B.A., St. Laurent College, Montreal (1950); LL.L., University of Montreal (1954); M.A. (Law), University of Montreal (1955); M.A. (Oxon.) (Economics and Political Science), Oxford University (1957); Diploma of Superior Studies in Law, University of Ottawa (1960); LL.D. *honoris causa*, Limburg University, Netherlands (1993).

Called to the Bar of Quebec (1955).

Professor of Commercial Law and Economics, University of Montreal (1957-1959); Special Assistant to the Canadian Minister of Justice (1959-1960); Partner, Gélinas, Bourque, Lalonde & Benoit, Montreal (1960-1967); Lecturer in Administrative Law for Doctoral Students, University of Ottawa and University of Montreal (1961-1962); Policy Adviser to Lester B. Pearson, Prime Minister of Canada (1967-1968); Principal Secretary to Pierre E. Trudeau, Prime Minister of Canada (1968-1972); Member of Parliament (1972-1984); Minister of Health and Welfare (1972-1977); Minister Responsible for the Status of Women (1974-1979); Minister of State Responsible for Federal-Provincial Relations (1977-1978); Minister of Justice and Attorney General for Canada (1978-1979); Minister of Energy, Mines and Resources (1980-1982); Minister of Finance (1982-1984); Partner, Stikeman, Elliott, Montreal, Quebec (since 1984).

Member of the Board of Directors of Citibank Canada, Orléans Resources Inc., O & Y Properties Corporation and Sherrit Power Inc.

Member of the International Advisory Council to the Presidium of Ukraine (1990-1997); the Advisory Committee on Constitutional Matters in Czechoslovakia (1989-1991); the International Advisory Council of Air France (1991-1994).

Chairman of the Council of Governors, Canada-Chile Board of Trade (since 1995). Chairman of Hôtel-Dieu Hospital, Montreal, Quebec (1984-1997).

Member of the Quebec Bar; the Law Society of Upper Canada (Ontario Bar); the American Bar Association (associate member); the International Bar Association; the Canadian Bar Association; the Chambre de Commerce de Montréal; the Chambre de Commerce France-Canada; the International Council on Commercial Arbitration; the Corporate Counsel Committee, American Arbitration Association; the Board of Directors of the American Arbitration Association; Chairman of the North American Users Committee of the London Court of International Arbitration; Corresponding Member of the Institute of International Business Law and Practice of the International Chamber of Commerce; the Advisory Board of the Asia/Pacific Centre for the Resolution of the International Business Disputes; the Canadian Arbitration Committee of the International Chamber of Commerce; Member of the Council of the Royal College of Physicians and Surgeons of Canada (lay member) (1995-1997).

Has written a number of articles and delivered lectures in Canada and abroad on arbitration. Has also been a frequent speaker to national and international conferences in the Canada-United States Free Trade Agreement and the North American Free Trade Agreement.

Queen's Counsel (1971); Member of the Privy Council of Canada (1972); Officer of the Order of Canada (1989).

Judge *ad hoc* Santiago TORRES BERNÁRDEZ

(Judge *ad hoc* in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and *Fisheries Jurisdiction (Spain* v. *Canada)*)

Born in Vigo, Spain, on 18 November 1929.

Licenciado (1952) and Doctor of Law (1959) of the University of Valladolid, Spain. *Diplomé d'études supérieures européennes* (1955) and Doctor of Law (1957) of the University of Saar, Germany. Doctor *Honoris Causa* of Law (1993) of the University of Alcalá de Henares, Spain.

Member of the Madrid Bar Association. Legal consultant and counsel or advocate in international cases.

Member of the Permanent Court of Arbitration; Member of the Humanitarian Fact-Finding Commission; Member of the Institute of International Law; Member of the International Law Association; Honorary Member of the Spanish Association of International Law Professors; Member of the Société française pour le droit international;

Member of the American Society of International Law; Associate Member of the Hispano-Luso-American Institute of International Law. Vice-president of the NGO "Spain with the UNHCR".

Judge *ad hoc* in the International Court of Justice in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* (1989-1992).

Former Registrar of the International Court of Justice (1980-1986). Former Member of the Office of Legal Affairs of the Secretariat of the United Nations (1959-1980) being, since 1975, Deputy Director of the Codification Division and Deputy Secretary of the International Law Commission. During that period served continually United Nations legal bodies (Sixth Committee of the General Assembly; International Law Commission; special or *ad hoc* committees), participating also in all the United Nations diplomatic conferences convened between 1960 and 1980 for the purpose of the progressive development of international law and its codification.

Author of various published studies and articles on questions of international law and international organizations and procedures, including: *À propos de l'interprétation et de la revision des arrêts de la Cour internationale de Justice*, 1987; *Resignations at the World Court*, 1988; *La reciprocidad en el sistema de jurisdicción obligatoria establecido en el Artículo 36, párrafo 2, del Estatuto de la Corte Internacional de Justicia*, 1988; "Subsidiary Organs of International Organizations", in *A Handbook on International Organizations*, published by the Hague Academy of International Law, 1988; "Problems and Issues Raised by 'Crimes of States': An Overview", *International Crimes of States. A Critical Analysis of the ILC's Draft Article 19 on State Responsibility*, 1989; "L'arbitrage interétatique. Avec des références particulières à la Convention européenne pour le règlement des différends du 20 avril 1957", in *The Peaceful Settlement of International Disputes in Europe: Future Prospects*, Workshop of the Hague Academy of International Law, 1990; "Observations on 'Non-Appearance' before the International Court of Justice", *Annuaire de l'Institut de droit international*, session de Bâle, Vol. 64–I, 1991; "Succession d'Etats", in Unesco, *Droit international. Bilan et perspectives*, 1991; *Reciprocity in the System of Compulsory Jurisdiction and in Other Modalities of Contentious Jurisdiction Exercised by the International Court of Justice*, 1992; *Perspectivas en la contribución de las Naciones Unidas al mantenimiento de la paz y la seguridad internacionales: Comentarios y observaciones sobre la Declaración de los Miembros del Consejo de Seguridad de 31 de enero de 1992*, 1993; "Spain and the Jurisdiction of the International Court of Justice: From Past to Present", *Archiv des Völkerrechts*, 1994; *The* Uti Possidetis Juris *Principle in Historical Perspective*, 1994; "Some Considerations on the Respective Roles of the Security Council and the International Court of Justice with Respect to 'the Prevention of Aggravation of Disputes' in the Domain of the Pacific Settlement of International Disputes or Situations", in *Proceedings of the Qatar International Law Conference '94* (United

Nations Decade of International Law), 1995; "La función de la Corte Internacional de Justicia en el sistema de la Carta de las Naciones Unidas", *Proceedings of the United Nations Congress on Public International Law, New York (March 1995)*, 1996; "L'intervention dans la procédure de la Cour internationale de Justice", Hague Academy of International Law, *Recueil des cours*, Vol. 256 (1995); *La Corte Internacional de Justicia en el sistema de la Carta en el cincuenta aniversario de las Naciones Unidas*, Universidad Carlos III, Madrid, 1996; "The New Theory of 'Indispensable Parties' under the Statute of the International Court of Justice", *Essays in Honour of Eric Suy*, 1998; "Interpretation of Treaties by the International Court of Justice Following the Adoption of the 1969 Vienna Convention on the Law of Treaties", *Liber Amicorum Professor Seidl-Hohenveldern*, 1998.

Awarded the Spanish Great Cross of Civil Merit (1987) and other foreign decorations (all after 1987).

Judge *ad hoc* Ahmed Sadek EL-KOSHERI

(Judge *ad hoc* in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*)

Born at Cairo, Egypt, on 4 April 1932.

Licencié en Droit, Faculté de Droit (1952), D.E.S. Droit Musulman (1954), D.E.S. Droit Privé (1955), D.E.S. Droit Public (1956), Cairo University. D.E.S. en Sciences Politiques (1957), Diplôme de Droit Comparé (1959), Paris University. D.E.S. en Histoire et Philosophie de Droit (1960), Doctorat d'Etat en Droit (1962), Rennes University.

Faculty Member of the Law School, Ain Shams University, Cairo (1958-1974). Visiting Professor, Beirut Arab University (1963-1964) and Nanterre University (Paris X) (1987-1988). Professor of International Economic Law and President of Senghor University, Alexandria.

Partner of Kosheri, Rashed and Riad law firm, Cairo.

Member of the Egyptian Conseil d'Etat (1952-1958). Legal Adviser of the Ministry of Oil and Finance, Kuwait (1968-1969). Founding General Counsel of the Arab Fund for Economic and Social Development, Kuwait (1973-1974). Secretary-General of the Islamic Development Bank, Jeddah (1978).

Member of the Institut de droit international. Member of the Council for International Commercial Arbitration (ICCA). Vice-President of the Euro-Arab Arbitration System. Member of the Scientific Council of the

International Business Law Institute, International Chamber of Commerce, Paris. Vice-President of the ICC Court of Arbitration.

Author of numerous books and articles on general public international law, international commercial law and on international arbitration.

Judge *ad hoc* Prince Bola Adesumbo Ajibola

(Judge *ad hoc* in the case concerning the
Land and Maritime Boundary between Cameroon and Nigeria
(Cameroon v. *Nigeria))*

Born to the Royal Family of Gbdaela II, on 22 March 1934, in Ago-Owu, Abeokuta, Ogun State, Nigeria.

Called to the Bar, Lincoln's Inn, 1962 (Barrister-at-Law); holds Bachelor of Laws Degree of London University; LL.D. *(honoris causa)* of the University of Buckingham (Chancellor the Rt. Hon. Baroness Margaret Thatcher) (1996).

Legal practitioner for 23 years, mostly in Lagos and also in all other parts of Nigeria; Principal Partner of Bola Ajibola and Co., with offices in Lagos, Ikeja, Abeokuta and Kaduna (specialization: commercial law practice with particular bias for international arbitration).

Attorney-General and Minister of Justice of the Federal Republic of Nigeria (1985-1991); President of the Association of Arbitrators of Nigeria; President of the Nigerian Bar Association (1984-1985); conferment of an Award of Senior Advocate of Nigeria (1986); Chairman of the Body of Senior Advocates of Nigeria (1985-1991); Chairman of the Disciplinary Committee of the Bar (1985-1991); Chairman of the General Council of the Bar (1985-1991); Chairman of the Advisory Committee on the Prerogative of Mercy (1985-1991); Member of the Advisory Judicial Committee (1985-1991); Member of the Judicial Service Committee (Abuja) (1987-1991); Vice-Chairman of the Body of Benchers (1989-1990); Chairman of the Body of Benchers (1990-1991); Member of the Nigeria Police Council (1989-1991); Chairman of the Task Force for the Revision of the Laws of the Federation (1990).

Leader of the Nigerian Delegation to the United States of America to Initial an Executive Agreement on Procedure for Mutual Assistance on Law Enforcement Matters (1987) and of the Delegation to conclude a Treaty on Mutual Assistance in Criminal Matters (1989), of the Delegation to the United Kingdom to conclude a Treaty concerning the Investigation and Prosecution of Crime and the Confiscation of the Proceeds of Crime (1989), and of the Delegation to the Islamic Republic of Iran and to Algeria, for bilateral talks on Technical and Legal Co-operation (1991).

Member of the Nigerian Delegation to the United Nations General Assembly and Nigerian representative to the Sixth Committee (1986); temporary President of the United Nations General Assembly at its seventeenth special session on narcotic drugs (1990); Member of the International Law Commission (1986-1991).

Member of the International Court of Justice from 5 December 1991 to 5 February 1994.

Member of the World Bank Administrative Tribunal; Member of the Constitutional Court of the Federation of Bosnia and Herzegovina (since 1995); Member of the United Nations Compensation Commission.

Member of the Permanent Court of Arbitration (The Hague), of its Steering Committee and of the Board of Trustees of its Financial Assistance Fund; Member of the International Chamber of Commerce Court of Arbitration, Paris; Member of the International Maritime Arbitration Commission, Paris; Member of the Board of the London Court of International Arbitration; President of the Pan-African Council of the London Court of International Arbitration. Member of the Court of Arbitration for Sport: CAS *Ad Hoc* Division for the Commonwealth Games in Kuala Lumpur (1998).

Initiated the first ever African Law Ministers Conference, Abuja (1989) (attended by 32 African countries); Chairman of Meeting of ECOWAS Council of Law Ministers, Lagos, Nigeria (1990), where the Treaty Establishing the Court for the Economic Community of West African States was drafted and agreed to by ECOWAS law ministers; leader of the Nigerian Delegation to the Ethiopian All-Party Conference on Peaceful and Democratic Transition (1991); Chairman of the First Meeting of the Working Committee, All-Africa Law Ministers Conference, Cairo (1991); Member of the Nigerian Delegation to the World Peace through Law Conferences in Seoul, South Korea (1987), and Beijing, China (1990); leader of the Nigerian Delegation to the World Conference on the Reform of Criminal Law, Canada (1987), to the Commonwealth Law Conference in Auckland, New Zealand (1990) and the Commonwealth Law Ministers Conference in Christchurch, New Zealand (1990); leader of the Nigerian Delegation to the World Ministerial Drugs Summit on Action to Reduce the Demand for Drugs and to Combat Cocaine Threat, London (1990), and to the 17th Session of the Asian African Legal Consultative Committee in Cairo (1991). President of the World Association of Judges; Vice-President of the International Contractual Relations Commission of the International Chamber of Commerce (1976-1980); Vice-President of the Institute of International Business Law and Practice, Paris; represented Africa in the demonstration trial on the law of the sea at the World Peace through Law Conference (Manila, 1977); Fellow of the Chartered Institute of Arbitrators; Fellow of the Nigerian Institute of Advanced Legal Studies; Friend of the Institute of Advanced Legal Studies, London; Honorary Vice-President of the Association of Arbitrators (South Africa).

Member of the International Bar Association and the Association of World Lawyers.

Member of the Governing Board of the International Maritime Law Institute of the International Maritime Organization (IMO); Member of the Board of Directors of the International Development Law Institute, Rome.

President and Founder of "African Concern" (a non-political, non-religious, non-profit-making, non-governmental organization), Lusaka, Zambia (1995).

Editor, *Nigeria's Treaties in Force*, 1970-1990; Editor, *All Nigeria Law Reports*, 1961-1990; Editor-in-Chief, *Justice* (a monthly journal of contemporary legal problems); General Editor of the *Federal Ministry of Justice Law Review Series (FMJLRS)*; Member of the Editorial Advisory Board of the University of Buckingham.

Publications include: *Principles of Arbitration*, 1980; *New Concepts in the Resolution of Disputes in International Construction Contracts*, 1981; *Work Paper on International Commercial Arbitration*, 1982; *Arbitration and State Enterprises – Case Study of Nigerian Cement Transactions*, 1983; *Modernization of National Arbitration Laws in Aid of International Commercial Arbitration*, 1984; *The Law and Settlement of Commercial Disputes*, 1984; *Law Development and Administration in Nigeria*, 1987; *Towards a Better Administration of Justice System in Nigeria*, 1988; *Integration of the African Continent through Law*, 1988; *Narcotics: Law and Policy in Nigeria*, 1989; *Compensation and Remedies for Victims of Crime*, 1989; *Banking Frauds and Other Financial Malpractices in Nigeria*, 1989; *Women and Children under Nigerian Law*, 1990; *Scheme relating to Mutual Assistance in Criminal Matters and the Control of Criminal Activities within Africa*, 1990; "Human Rights under Military Rule in Africa: The Nigerian Experience" in *Essays in Honour of Judge Taslim Olawale Elias*, 1991. Gave a series of lectures on human rights in Accra, Ghana, under the auspices of the Ghana Bar Association, entitled: "Human Rights Agenda for a Stable 21st Century". Author of numerous articles and conference papers.

1987 World Jurist Award (under the auspices of World Peace through Law at Seoul); Senior Advocate of Nigeria; Recipient of 1986 Ogun State of Nigeria Outstanding Citizen Merit Award; Life Member, Nigerian Institute of International Affairs; Life Member, Body of Benchers, Nigeria; Knight of the Order of the British Empire; Patron of the Nigerian Society of International Law.

Judge *ad hoc* Yves L. FORTIER

(Judge *ad hoc* in the case concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*)

Born in Quebec, Canada, on 11 September 1935.

Bachelor of Arts *summa cum laude* of the University of Montreal (1955). Bachelor of Civil Law, McGill University (1958); and Bachelor of Letters as a Rhodes Scholar at Oxford University (1960). Doctor of Laws *honoris causa*, the Law Society of Upper Canada (1989), Acadia University (1992) and the University of British Columbia (1993).

Admitted to the Bar of the Province of Quebec (1961). Joined at that time the predecessor firm of Ogilvy Renault of which he is Chairman since 1992. Queen's Counsel (1976). Officer of the Order of Canada (1984); elevated to the level of Companion in the Order (1991). Awarded the Médaille d'Or of the Quebec Bar (1992). President's Award of the Canadian Bar Association (1993).

Pleaded important cases before all court jurisdictions in Canada and before domestic as well as international arbitral panels. Served as an arbitrator on many international arbitration panels constituted by various arbitration centres, including the International Chamber of Commerce (Paris), the London Court of International Arbitration and the American Arbitration Association. Counsel for Canada before the International Court of Justice in the case concerning *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (1984). Since being called to the Bar, has served as Counsel to many Royal Commissions and Commissions of Inquiry in Canada. Canada's Chief Negotiator in the Canada-France fishing dispute (1987-1989). Counsel for Canada before the *ad hoc* International Panel of Arbitrators constituted to determine the maritime boundary between Canada and France in the North Atlantic (1991). Canada's Chief Negotiator for the Canada-United States Pacific Salmon Treaty negotiations (since 1993). Special Negotiator of the Government of Quebec to the Cree Nation (1993). Appointed by the Security Council of the United Nations as Chairman of a Panel of the United Nations Compensation Commission in Geneva (Iraq-Kuwait) (1993). Counsel for Canada in the mediation of the Canada-United States Pacific Salmon dispute (1995).

Canada's Ambassador and Permanent Representative to the United Nations in New York (1988-1992). Canada's Chief Delegate to the 43rd, 44th, 45th and 46th Sessions of the United Nations General Assembly (1988-1991). Vice-President of the 45th General Assembly (1990). Canada's Representative to the Security Council of the United Nations (1989-1990). President of the Council (1989).

Director of the Royal Bank of Canada, Northern Telecom Limited, TransCanada PipeLines Limited, Hudson's Bay Company, DuPont Canada Inc., Avenor Inc., Southern Inc., and other Canadian companies. Director or governor of several non-profit organizations including the C. D. Howe Institute, the Hockey Hall of Fame and Museum, the Montreal General Hospital Foundation, the Canadian Foundation for AIDS research (CANFAR) and the Clinical Research Institute of Montreal. Director of the Canadian Institute for Advanced Legal Studies, one of the Founding Directors of the Canadian Bar Association Law for the Future Fund and patron of the International Centre for Human Rights and Democratic Development. Director of the International Peace Academy and the United Nations International School. Member of the Executive Board of the International Association of Permanent Representatives to the United Nations.

Member of numerous professional organizations, including the

Canadian Bar Association, which he headed as National President in 1982-1983, the American Bar Association (honorary), the International Commission of Jurists (Canadian Section), the International Bar Association, the Union Internationale des Avocats, the ICC Institute of International Business Law and Practice, the International Law Association (Canadian Branch), the American College of Trial Lawyers (member of the Board of Regents), the CPR International Panel of Distinguished Neutrals, the Quebec National and International Commercial Arbitration Centre (Chairman, Committee of Experts), the British Columbia International Commercial Arbitration Centre (member, Panel of Arbitrators), the American Society of International Law, the International Council for Commercial Arbitration (ICCA), the London Court of International Arbitration (LCIA) (member of the Arbitration Court, the Court of Arbitration for Sport (CAS) and the Legal Service and Research Centre (LSRC)).

Member of the Permanent Court of Arbitration (1984-1989). Legal Adviser to the Commission on Civil Governance in Geneva (1992-1995). Member of the Trilateral Commission (member of the North American Executive Committee (since 1993)).

Judge *ad hoc* Milenko KREĆA

(Judge *ad hoc* in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*)

Born in Sisak, Croatia, on 19 August 1947.

Received M.A. and Ph.D. (LL.D.) degrees *cum laude* from the School of Law, Belgrade University.

Upon graduation, practised law as an attorney (1973-1974).

Assistant Professor (1975), Docent (1978) and Associate Professor (1985) at the Belgrade School of Law. Full-time Professor of International Public Law (1990) and Associate Dean (1989-1991) at the Belgrade School of Law. Head of Chair of International Law and International Relations at the Faculty of Law in Belgrade (since 1997); Director of the Institute for International Politics and Economics (since 1997); President of the Council of the Institute for Comparative Law (since 1997); Member of the Federal Commission for Harmonization of FRY Law with the Laws of EU, EC and WTO (since 1998); Member of the Board of the Faculty of Law in Belgrade (since 1998).

Was on several occasions legal adviser to the Ministry of Foreign Affairs and Government of the Federal Republic of Yugoslavia and to other organs of the Republic of Serbia and the Federal Republic of Yugoslavia.

Papers and books: *Practical Course in International Law* (co-author), 1980; *International Public Law* (co-author), 1983, 1986, 1989, 1990, 1991, 1993, 1996; *Sources of International Public Law*, 1979, 1985; *Treaty-making Power of the State in International Law, with a Special Review of Federal States*, 1988; *Absolutely Binding Norms (Ius Cogens) in International Public Law*, 1989; *Material for International Public Law*, I-III (co-author), 1988-1989; *Law of the Sea – Scientific Research of the Sea and Transfer of Marine Technology*, 1990; *Treaty-making Power of the State in International Law*, 1991. Author of over 70 articles and papers in Serbian and foreign languages, including: "Some General Reflections on Main Features of *Ius Cogens* as a Notion of International Public Law", in *New Directions in International Law, Essays in Honour of W. Abendroth*, 1982; "Quelques observations sur le problème de la hiérarchie des règles de droit dans le droit international public", in *Yugoslav Review of International Law*, No. 1, 1980; "Constitutional Provisions Regulating Activity of Federal Units in International Relations", in *Yugoslav Review of International Law*, No. 1, 1992.

CHAPTER III

JURISDICTION OF THE COURT

I. JURISDICTION IN CONTENTIOUS CASES

It is the function of the International Court of Justice to decide in accordance with international law such disputes as are submitted to it (Statute, Art. 38, para. 1). Its jurisdiction in this respect is defined in Article 93 of the Charter of the United Nations and in Articles 34-37 of the Statute of the Court.

1. States Entitled to Appear before the Court

Article 34, paragraph 1, of the Statute provides that: "Only States may be parties in cases before the Court." International organizations, other collectivities and private persons are therefore not entitled to institute proceedings before the Court.

A State entitled to appear before the Court may fall into one of three categories:

(a) *States Members of the United Nations*

Article 35, paragraph 1, of the Statute provides that the Court shall be open to the States parties to the Statute, and Article 93, paragraph 1, of the Charter of the United Nations provides that all Members of the United Nations are *ipso facto* parties to the Statute.

On 31 July 1998 the following 185 States were Members of the United Nations:

State	*Date of Admission*
Afghanistan	19 November 1946
Albania	14 December 1955
Algeria	8 October 1962
Andorra	28 July 1993
Angola	1 December 1976
Antigua and Barbuda	11 November 1981
Argentina	Original Member
Armenia	2 March 1992
Australia	Original Member
Austria	14 December 1955
Azerbaijan	2 March 1992
Bahamas	18 September 1973
Bahrain	21 September 1971
Bangladesh	17 September 1974
Barbados	9 December 1966

State	*Date of Admission*
Belarus	Original Member
Belgium	,, ,,
Belize	25 September 1981
Benin	20 September 1960
Bhutan	21 September 1971
Bolivia	Original Member
Bosnia and Herzegovina	22 May 1992
Botswana	17 October 1966
Brazil	Original Member
Brunei Darussalam	21 September 1984
Bulgaria	14 December 1955
Burkina Faso	20 September 1960
Burundi	18 September 1962
Cambodia	14 December 1955
Cameroon	20 September 1960
Canada	Original Member
Cape Verde	16 September 1975
Central African Republic	20 September 1960
Chad	,, ,,
Chile	Original Member
China	,, ,,
Colombia	,, ,,
Comoros	12 November 1975
Congo	20 September 1960
Costa Rica	Original Member
Côte d'Ivoire	20 September 1960
Croatia	22 May 1992
Cuba	Original Member
Cyprus	20 September 1960
Czech Republic	19 January 1993
Democratic People's Republic of Korea	17 September 1991
Democratic Republic of the Congo	20 September 1960
Denmark	Original Member
Djibouti	20 September 1977
Dominica	18 December 1978
Dominican Republic	Original Member
Ecuador	,, ,,
Egypt	,, ,,
El Salvador	,, ,,
Equatorial Guinea	12 November 1968
Eritrea	28 May 1993
Estonia	17 September 1991
Ethiopia	Original Member
Fiji	13 October 1970
Finland	14 December 1955
France	Original Member

State	*Date of Admission*
Gabon	20 September 1960
Gambia	21 September 1965
Georgia	31 July 1992
Germany	18 September 1973
Ghana	8 March 1957
Greece	Original Member
Grenada	17 September 1974
Guatemala	Original Member
Guinea	12 December 1958
Guinea-Bissau	17 September 1974
Guyana	20 September 1966
Haiti	Original Member
Honduras	,, ,,
Hungary	14 December 1955
Iceland	19 November 1946
India	Original Member
Indonesia	28 September 1950
Iran (Islamic Republic of)	Original Member
Iraq	,, ,,
Ireland	14 December 1955
Israel	11 May 1949
Italy	14 December 1955
Jamaica	18 September 1962
Japan	18 December 1956
Jordan	14 December 1955
Kazakhstan	2 March 1992
Kenya	16 December 1963
Kuwait	14 May 1963
Kyrgyzstan	2 March 1992
Lao People's Democratic Republic	14 December 1955
Latvia	17 September 1991
Lebanon	Original Member
Lesotho	17 October 1966
Liberia	Original Member
Libyan Arab Jamahiriya	14 December 1955
Liechtenstein	18 September 1990
Lithuania	17 September 1991
Luxembourg	Original Member
Madagascar	20 September 1960
Malawi	1 December 1964
Malaysia	17 September 1957
Maldives	21 September 1965
Mali	28 September 1960
Malta	1 December 1964
Marshall Islands	17 September 1991
Mauritania	27 October 1961

State	*Date of Admission*
Mauritius	24 April 1968
Mexico	Original Member
Micronesia (Federated States of)	17 September 1991
Monaco	28 May 1993
Mongolia	27 October 1961
Morocco	12 November 1956
Mozambique	16 September 1975
Myanmar	19 April 1948
Namibia	23 April 1990
Nepal	14 December 1955
Netherlands	Original Member
New Zealand	,, ,,
Nicaragua	,, ,,
Niger	20 September 1960
Nigeria	7 October 1960
Norway	Original Member
Oman	7 October 1971
Pakistan	30 September 1947
Palau	15 December 1994
Panama	Original Member
Papua New Guinea	10 October 1975
Paraguay	Original Member
Peru	,, ,,
Philippines	,, ,,
Poland	,, ,,
Portugal	14 December 1955
Qatar	21 September 1971
Republic of Korea	17 September 1991
Republic of Moldova	2 March 1992
Romania	14 December 1955
Russian Federation	Original Member
Rwanda	18 September 1962
Saint Kitts and Nevis	23 September 1983
Saint Lucia	18 September 1979
Saint Vincent and the Grenadines	16 September 1980
Samoa	15 December 1976
San Marino	2 March 1992
Sao Tome and Principe	16 September 1975
Saudi Arabia	Original Member
Senegal	28 September 1960
Seychelles	21 September 1976
Sierra Leone	27 September 1961
Singapore	21 September 1965
Slovakia	19 January 1993
Slovenia	22 May 1992
Solomon Islands	19 September 1978

State	*Date of Admission*
Somalia	20 September 1960
South Africa	Original Member
Spain	14 December 1955
Sri Lanka	" "
Sudan	12 November 1956
Suriname	4 December 1975
Swaziland	24 September 1968
Sweden	19 November 1946
Syrian Arab Republic	Original Member
Tajikistan	2 March 1992
Thailand	16 December 1946
The former Yugoslav Republic of Macedonia	8 April 1993
Togo	20 September 1960
Trinidad and Tobago	18 September 1962
Tunisia	12 November 1956
Turkey	Original Member
Turkmenistan	2 March 1992
Uganda	25 October 1962
Ukraine	Original Member
United Arab Emirates	9 December 1971
United Kingdom of Great Britain and Northern Ireland	Original Member
United Republic of Tanzania	14 December 1961
United States of America	Original Member
Uruguay	" "
Uzbekistan	2 March 1992
Vanuatu	15 September 1981
Venezuela	Original Member
Viet Nam	20 September 1977
Yemen	30 September 1947
Yugoslavia	Original Member
Zambia	1 December 1964
Zimbabwe	25 August 1980

(b) *States, not members of the United Nations, parties to the Statute*[1]

Article 93, paragraph 2, of the Charter of the United Nations provides that States which are not members of the United Nations may become parties to the Statute of the Court on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

The conditions laid down have hitherto been the same in each case. They were laid down for the first time as a result of a request by the Swiss

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[1] The full text of the resolutions referred to in this section is given on pages 175-183 of *I.C.J. Acts and Documents No. 5.*

Federal Council; on that occasion the General Assembly, on 11 December 1946, adopted resolution 91 (I) which prescribed the following conditions:

> "*(a)* Acceptance of the provisions of the Statute of the International Court of Justice;
>
> *(b)* Acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> *(c)* An undertaking to contribute to the expenses of the Court such equitable amount as the General Assembly shall assess from time to time after consultation with the Swiss Government."[1]

The date on which the State concerned becomes a party to the Statute is that of the deposit with the Secretary-General of the United Nations of the instrument of acceptance of the conditions.

Pursuant to Article 4, paragraph 3, of the Statute, the conditions on which such a State may participate in the election of Members of the Court were laid down in resolution 264 (III) adopted by the General Assembly, upon the recommendation of the Security Council, on 8 October 1948. The operative part of this resolution lays down that:

> "1. Such a State shall be on an equal footing with the Members of the United Nations in respect to those provisions of the Statute which regulate the nominations of candidates for election by the General Assembly.
>
> 2. Such a State shall participate, in the General Assembly, in electing the members of the Court in the same manner as the Members of the United Nations.
>
> 3. Such a State, when in arrears in the payment of its contribution to the expenses of the Court, shall not participate in electing the members of the Court in the General Assembly if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a State to participate in the elections if it is satisfied that the failure to pay is due to conditions beyond the control of that State (see Charter, Article 19)."

The participation of such States in the procedure for amending the Statute of the Court (Charter, Art. 108; Statute, Art. 69) is governed by the following provisions of resolution 2520 (XXIV) adopted by the General Assembly, upon the recommendation of the Security Council, on 4 December 1969:

> "*(a)* A State which is a party to the Statute of the International Court of Justice, but is not a Member of the United Nations, may participate in the General Assembly in regard to amendments to the Statute in the same manner as the Members of the United Nations;
>
> *(b)* Amendments to the Statute of the International Court of Jus-

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[1] See below, Chap. VIII, p. 331.

tice shall come into force for all States which are parties to the Statute when they have been adopted by a vote of two-thirds of the States which are parties to the Statute and ratified in accordance with their respective constitutional processes by two-thirds of the States which are parties to the Statute and in accordance with the provisions of Article 69 of the Statute and Article 108 of the Charter of the United Nations."

The following States not members of the United Nations are at present parties to the Statute[1]:

State	*Resolution of the General Assembly*	*Deposit of the instrument of acceptance*
Nauru	42/21, 18 November 1987	29 January 1988
Switzerland	91 (I), 11 December 1946	28 July 1948

(c) *States, not parties to the Statute, to which the Court may be open*

The Court, which is open to States parties to the Statute, is also open to other States, in accordance with Article 35, paragraph 2, of the Statute[2]. This Article provides that the conditions upon which the Court shall be open to such States shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.

On 15 October 1946, the Security Council adopted resolution 9 (1946) which reads as follows:

> "The Security Council
>
> In virtue of the powers conferred upon it by Article 35, paragraph 2, of the Statute of the International Court of Justice and subject to the provisions of that Article,
>
> Resolves that:
>
> 1. The International Court of Justice shall be open to a State which is not a party to the Statute of the International Court of Justice, upon the following condition, namely, that such State shall previously have deposited with the Registrar of the Court a declaration by which it accepts the jurisdiction of the Court, in accordance with the Charter of the United Nations and with the terms and subject to the conditions of the Statute and Rules of the Court, and undertakes to comply in good faith with the decision or decisions of the Court and to accept all the obligations of a Member of the United Nations under Article 94 of the Charter;
>
> 2. Such declaration may be either particular or general. A particular declaration is one accepting the jurisdiction of the Court in respect

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[1] Before becoming Members of the United Nations, Japan, Liechtenstein and San Marino were parties to the Statute of the Court, as from 2 April 1954, 29 March 1950 and 18 February 1954 respectively.

[2] See also Rules, Art. 26, para. 1 *(c)*, and Art. 41, and below, Chap. VIII, p. 331.

> only of a particular dispute or disputes which have already arisen. A general declaration is one accepting the jurisdiction generally in respect of all disputes or of a particular class or classes of disputes which have already arisen or which may arise in the future. A State, in making such a general declaration, may, in accordance with Article 36, paragraph 2, of the Statute, recognize as compulsory, *ipso facto* and without special agreement, the jurisdiction of the Court, provided, however, that such acceptance may not, without explicit agreement, be relied upon vis-à-vis States parties to the Statute which have made the declaration in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice;
>
> 3. The original declarations made under the terms of this resolution shall be kept in the custody of the Registrar of the Court, in accordance with the practice of the Court. Certified true copies thereof shall be transmitted, in accordance with the practice of the Court, to all States parties to the Statute of the International Court of Justice, and to such other States as shall have deposited a declaration under the terms of this resolution, and to the Secretary-General of the United Nations;
>
> 4. The Security Council reserves the right to rescind or amend this resolution by a resolution which shall be communicated to the Court, and on the receipt of such communication and to the extent determined by the new resolution, existing declarations shall cease to be effective except in regard to disputes which are already before the Court;
>
> 5. All questions as to the validity or the effect of a declaration made under the terms of this resolution shall be decided by the Court."

In the past, particular declarations have been filed by Albania (1947) and by Italy (1953), and general declarations by Cambodia (1952), Ceylon (1952), the Federal Republic of Germany (1955, 1956, 1961, 1965 and 1971), Finland (1953 and 1954), Italy (1955), Japan (1951), Laos (1952), and the Republic of Viet Nam (1952).

2. Basis of the Court's Jurisdiction

The jurisdiction of the Court in contentious proceedings is based on the consent of the States to which it is open[1]. The form in which this consent is expressed determines the manner in which a case may be brought before the Court.

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[1] In the following eight cases, the Court found that it could take no further steps upon an Application in which it was admitted that the opposing party did not accept its jurisdiction: *Treatment in Hungary of Aircraft and Crew of United States of America (United States of America* v. *Hungary) (United States of America* v. *USSR); Aerial Incident of 10 March 1953 (United States of America* v. *Czechoslovakia); Antarctica (United Kingdom* v. *Argentina) (United Kingdom* v. *Chile); Aerial Incident of 7 October 1952 (United States of America* v. *USSR); Aerial Incident of 4 September 1954 (United States of America* v. *USSR); Aerial Incident of 7 November 1954 (United States of America* v. *USSR)*. On 1 July 1978 the present Rules of Court came into force, Article 38, paragraph 5, of which provides:

(a) *Special agreement*

Article 36, paragraph 1, of the Statute provides that the jurisdiction of the Court comprises all cases which the parties refer to it. Such cases normally come before the Court by notification to the Registry of an agreement known as a *special agreement* and concluded by the parties specially for this purpose[1]. The subject of the dispute and the parties must be indicated (Statute, Art. 40, para. 1; Rules, Art. 39).

(b) *Cases provided for in treaties and conventions*

Article 36, paragraph 1, of the Statute provides also that the jurisdiction of the Court comprises all matters specially provided for in treaties and conventions in force. In such cases a matter is normally brought before the Court by means of a written *application instituting proceedings*[2]; this is a unilateral document which must indicate the subject of the dispute and

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> "When the applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Article 38, paragraph 5, has been applied with regard to an Application filed by Hungary on 23 October 1992, instituting proceedings against the Czech and Slovak Republic, and with regard to an Application filed by the Federal Republic of Yugoslavia on 16 March 1994, instituting proceedings against the Member States of NATO.

[1] The following 13 cases were submitted to the Court by means of special agreements: *Asylum (Colombia/Peru); Minquiers and Ecrehos (France/United Kingdom); Sovereignty over Certain Frontier Land (Belgium/Netherlands); North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands); Continental Shelf (Tunisia/Libyan Arab Jamahiriya); Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* (case referred to a Chamber); *Continental Shelf (Libyan Arab Jamahiriya/Malta); Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* (case referred to a Chamber); *Territorial Dispute (Libyan Arab Jamahiriya/Chad); Gabčíkovo-Nagymaros Project (Hungary/Slovakia); Kasikili/Sedudu Island (Botswana/Namibia)*. In the *Corfu Channel (United Kingdom* v. *Albania)* case the Parties made a special agreement after delivery of the Judgment on the Preliminary Objection. The case concerning the *Arbitral Award Made by the King of Spain on 23 December 1906 (Honduras* v. *Nicaragua)* was submitted by means of an application, but the Parties had previously concluded an agreement on the procedure to be followed in submitting the dispute to the Court.

[2] With the exception of the 13 cases listed above under footnote 1, which were brought by the notification of a special agreement, all contentious cases have been brought before the Court by means of an application instituting proceedings, irrespective of whether the Court's jurisdiction was founded on a provision in a treaty or convention, declarations recognizing the Court's jurisdiction as obligatory made by each of the parties to the dispute, or any other alleged form of consent.

the parties (Statute, Art. 40, para. 1) and, as far as possible, specify the provision on which the applicant founds the jurisdiction of the Court (Rules, Art. 38).

A list of treaties and conventions governing the jurisdiction of the International Court of Justice in contentious cases is given in Chapter IV (Sec. III) of the present *Yearbook* (pp. 125-142). Furthermore, some of the agreements and conventions mentioned in Section I of Chapter IV (pp. 77-83) relate, in particular, to the jurisdiction of the Court in contentious proceedings.

To these instruments must be added other treaties and conventions concluded earlier and conferring jurisdiction upon the *Permanent Court of International Justice*, for Article 37 of the Statute of the International Court of Justice stipulates that whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the *Permanent Court of International Justice*, the matter shall, as between the parties to the Statute, be referred to the International Court of Justice. The *Permanent Court* reproduced, in 1932, in its *Collection of Texts governing the Jurisdiction of the Court* (*P.C.I.J., Series D, No. 6*, fourth edition) and subsequently in Chapter X of its *Annual Reports (P.C.I.J., Series E, Nos. 8-16)* the relevant provisions of the instruments governing its jurisdiction. By virtue of the Article referred to above, some of these provisions now govern the jurisdiction of the International Court of Justice.

(c) *Compulsory jurisdiction in legal disputes*

The Statute provides that a State may recognize as compulsory, in relation to any other State accepting the same obligation, the jurisdiction of the Court in legal disputes. These cases are brought before the Court by means of written applications. The conditions on which such compulsory jurisdiction may be recognized are stated in paragraphs 2-5 of Article 36 of the Statute, which read as follows:

> "2. The States parties to the present Statute may at any time declare that they recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
>
> *(a)* the interpretation of a treaty;
>
> *(b)* any question of international law;
>
> *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
>
> *(d)* the nature or extent of the reparation to be made for the breach of an international obligation.
>
> 3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain States, or for a certain time.

4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.

5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms."

Texts of declarations accepting the compulsory jurisdiction of the Court are given in Section II of Chapter IV below (pp. 83-124).

(d) *The Court itself decides any question as to its jurisdiction*

Article 36, paragraph 6, of the Statute provides that in the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court. Article 79 of the Rules lays down the conditions which govern the filing of preliminary objections[1].

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[1] Preliminary objections were raised in the following 26 cases: *Corfu Channel (United Kingdom* v. *Albania); Rights of Nationals of the United States of America in Morocco (France* v. *United States of America); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Nottebohm (Liechtenstein* v. *Guatemala); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America); Certain Norwegian Loans (France* v. *Norway); Right of Passage over Indian Territory (Portugal* v. *India); Interhandel (Switzerland* v. *United States of America); Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria) (United States of America* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain); Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Temple of Preah Vihear (Cambodia* v. *Thailand); South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); Northern Cameroons (Cameroon* v. *United Kingdom); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain); Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Oil Platforms (Islamic Republic of Iran* v. *United States of America); Questions of Interpretation and Application of the 1971 Montreal Convention arising out of the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia); Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria).* Questions of jurisdiction or admissibility have also been raised in the following 13 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan); Fisheries Jurisdiction (United Kingdom* v. *Iceland; Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain); East Timor (Portugal* v. *Australia); Fisheries Jurisdiction (Spain* v. *Canada).*

(e) *Interpretation of a judgment*

Article 60 of the Statute provides that in the event of dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party. The request for interpretation may be made either by means of a special agreement between the parties or of an application by one or more of the parties (Rules, Art. 98)[1].

(f) *Revision of a judgment*

An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such party's ignorance was not due to negligence (Statute, Art. 61, para. 1). A request for revision is made by means of an application (Rules, Art. 99)[2].

II. ADVISORY JURISDICTION

The advisory jurisdiction of the Court is governed by Article 65 of the Statute and Article 96 of the Charter of the United Nations.

By virtue of Article 65 of the Statute, the Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request. An exact statement of the questions upon which the advisory opinion is asked must be contained in a *request for an advisory opinion*.

Article 96, paragraph 1, of the Charter provides that advisory opinions may be asked of the Court by the General Assembly or the Security Council on any legal question. Paragraph 2 of this Article adds:

> "Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities."

The following organs and agencies are at present authorized to request advisory opinions[3]:

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[1] An application for interpretation of the Judgment was made by Colombia in respect of the *Asylum (Colombia/Peru)* case. Cf. note 2, below.

[2] An application for revision and interpretation of the Judgment was filed by Tunisia in respect of the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[3] The International Refugee Organization, which had been authorized to request advisory opinions of the Court, ceased to exist in 1952. The Havana Charter for an International Trade Organization, which provides for the jurisdiction of the Court in proceedings in regard to advisory opinions, has not entered into force.

- United Nations:
  - General Assembly[1],
  - Security Council[2],
  - Economic and Social Council[3],
  - Trusteeship Council,
  - Interim Committee of the General Assembly;
- International Labour Organisation;
- Food and Agriculture Organization of the United Nations;
- United Nations Educational, Scientific and Cultural Organization[4];
- World Health Organization[5];
- International Bank for Reconstruction and Development;
- International Finance Corporation;
- International Development Association;
- International Monetary Fund;
- International Civil Aviation Organization;
- International Telecommunication Union;
- International Fund for Agricultural Development;
- World Meteorological Organization;
- International Maritime Organization[6];
- World Intellectual Property Organization;
- United Nations Industrial Development Organization;
- International Atomic Energy Agency.

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[1] The General Assembly has requested 14 advisory opinions of the Court in the following 13 cases: *Conditions of Admission of a State to Membership in the United Nations (Article 4 of the Charter); Reparation for Injuries Suffered in the Service of the United Nations; Interpretation of Peace Treaties with Bulgaria, Hungary and Romania, First Phase;* id., *Second Phase; Competence of the General Assembly for the Admission of a State to the United Nations; International Status of South West Africa; Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide; Effect of Awards of Compensation Made by the United Nations Administrative Tribunal; Voting Procedure on Questions Relating to Reports and Petitions concerning the Territory of South West Africa; Admissibility of Hearings of Petitioners by the Committee on South West Africa; Certain Expenses of the United Nations (Article 17, Paragraph 2, of the Charter); Western Sahara; Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947; Legality of the Threat or Use of Nuclear Weapons.*

[2] The Security Council requested an advisory opinion of the Court concerning the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970).*

[3] The Economic and Social Council requested an advisory opinion of the Court in the case concerning the *Applicability of Article VI, Section 22, of the Convention on the Privileges and Immunities of the United Nations.*

[4] The Executive Board of Unesco requested an advisory opinion of the Court concerning *Judgments of the Administrative Tribunal of the ILO upon Complaints Made against Unesco.*

[5] The World Health Assembly requested an advisory opinion of the Court in two cases: *Interpretation of the Agreement of 25 March 1951 between the WHO and Egypt* and *Legality of the Use by a State of Nuclear Weapons in Armed Conflict.*

[6] The Assembly of this organization requested an advisory opinion of the Court concerning the *Constitution of the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization.*

In Section I of Chapter IV of the present *Yearbook* (pp. 77-83) will be found references to the instruments by virtue of which such requests may be submitted by the above organs and agencies.

CHAPTER IV

TEXTS GOVERNING THE JURISDICTION OF THE COURT

The present chapter, which is compiled from the information available to the Registry, presents a compendium of instruments governing the jurisdiction of the Court. It takes into account, so far as the Registry is informed of them, any amendments to those instruments which have affected their provisions concerning the jurisdiction of the Court. The inclusion or omission of any instrument should not be regarded as an indication of any view entertained by the Registry, or *a fortiori* by the Court, regarding the nature, scope or validity of the instrument in question.

I. INSTRUMENTS GOVERNING THE RELATIONSHIP OF ORGANS OF THE UNITED NATIONS AND INTERNATIONAL ORGANIZATIONS WITH THE COURT

This section lists provisions for the contentious or advisory jurisdiction of the Court in the following categories of instruments: constitutional texts of public international organizations; agreements concluded between the United Nations and other international organizations; authorizations accorded by the General Assembly of the United Nations to other organs of the United Nations or to international organizations by virtue of Article 96, paragraph 2, of the Charter[1]; multilateral conventions relating to the privileges and immunities of world-wide international organizations; agreements concluded by international organizations with States.

1. United Nations

Authorization to the *General Assembly* and the *Security Council* to request advisory opinions of the International Court of Justice: Charter, Article 96, paragraph 1.

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[1] By resolution 957 (X) of 8 November 1955 the General Assembly, amending the Statute of the United Nations Administrative Tribunal (Art. 11), authorized the *Committee on Applications for Review of Judgements of the United Nations Administrative Tribunal* to request advisory opinions of the International Court of Justice. By resolution 50/54 of 11 December 1995, the General Assembly amended the Tribunal's Statute again, *inter alia* deleting Article 11 with respect to Judgements rendered after 31 December 1995.

Authorization to the *Economic and Social Council* to request advisory opinions of the International Court of Justice: resolution 89 (I) of the General Assembly, 11 December 1946.

Authorization to the *Trusteeship Council* to request advisory opinions of the International Court of Justice: resolution 171 (II) of the General Assembly, 14 November 1947, paragraph B.

Authorization to the *Interim Committee of the General Assembly* to request advisory opinions of the International Court of Justice: resolution 196 (III) of the General Assembly, 3 December 1948, paragraph 3[1].

Convention on the privileges and immunities of the United Nations, adopted by the General Assembly on 13 February 1946, Article VIII, Section 30 (United Nations, *Treaty Series*, I, No. 4, Vol. 1).

Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, 26 June 1947, Article VIII, Section 21 (United Nations, *Treaty Series*, I, No. 147, Vol. 11).

Agreement between Chile and the United Nations Economic Commission for Latin America regulating conditions for the operation, in Chile, of the Headquarters of the Commission, 16 February 1953, Article XI, Section 21 (United Nations, *Treaty Series*, I, No. 4541, Vol. 314).

Agreement between the United Nations and Thailand relating to the Headquarters of the Economic Commission for Asia and the Far East in Thailand, 26 May 1954, Article XIII, Section 26 (United Nations, *Treaty Series*, I, No. 3703, Vol. 260).

Agreement between the United Nations and Ethiopia regarding the Headquarters of the United Nations Economic Commission for Africa, 18 June 1958, Article IX (United Nations, *Treaty Series*, I, No. 4597, Vol. 317).

Agreement between the United Nations and Japan regarding the Headquarters of the United Nations University, 14 May 1976, Section 22 (United Nations, *Treaty Series*, I, No. 14839, Vol. 1009).

Agreement between the United Nations and Greece regarding the headquarters of the Co-ordinating Unit for the Mediterranean Action Plan, 11 February 1982, Section 26 (United Nations, *Treaty Series*, I, No. 20736, Vol. 1261).

2. *All Specialized Agencies*

Convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on

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[1] The mandate of the Interim Committee was extended indefinitely by resolution 295 (IV) of the General Assembly of 21 November 1949, paragraph 3 of which preserved its authority to request advisory opinions of the Court.

21 November 1947, Article VII, Section 24, and Article IX, Section 32 (United Nations, *Treaty Series*, I, No. 521, Vol. 33).

3. International Labour Organisation

Instrument for the amendment of the Constitution of the International Labour Organisation, 9 October 1946, Articles 29, 31-34 and 37 (United Nations, *Treaty Series*, I, No. 229, Vol. 15).

Agreement between the United Nations and the International Labour Organisation, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 9, Vol. 1).

Statute of the Administrative Tribunal of the International Labour Organisation, adopted by the International Labour Conference on 9 October 1946 and modified by the Conference on 29 June 1949, Article XII[1].

4. Food and Agriculture Organization of the United Nations

Constitution of the Food and Agriculture Organization of the United Nations, 16 October 1945, as amended in 1957, Article XVII (Food and Agriculture Organization of the United Nations, *Basic Texts*, Vol. I, 1968).

Agreement between the United Nations and the Food and Agriculture Organization of the United Nations, approved by the General Assembly of the United Nations on 14 December 1946, Article IX (United Nations, *Treaty Series*, II, No. 10, Vol. 1).

Terms of appointment of the Director-General of the Food and Agriculture Organization of the United Nations: recommendation by the Conference of the Organization, 27 October 1945, paragraph 3 (Food and Agriculture Organization of the United Nations, *Report of the First Session of the Conference*, 16 October-1 November 1945).

5. United Nations Educational, Scientific and Cultural Organization

Constitution of the United Nations Educational, Scientific and Cultural Organization, 16 November 1945, Articles V, paragraph 11 (adopted in

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[1] The jurisdiction of this Tribunal, which is open to officials of the International Labour Organisation or other persons claiming under the terms of appointment of an official, has been recognized also by the following international organizations, which are authorized to request advisory opinions: Food and Agriculture Organization of the United Nations; United Nations Educational, Scientific and Cultural Organization; World Health Organization; International Telecommunication Union; World Meteorological Organization; World Intellectual Property Organization; International Atomic Energy Agency.

1952), and XIV, paragraph 2 (United Nations, *Treaty Series*, I, No. 52, Vol. 4)[1].

Agreement between the United Nations and the United Nations Educational, Scientific and Cultural Organization, approved by the General Assembly of the United Nations on 14 December 1946, as revised and approved by the General Assembly of the United Nations on 8 December 1962, Article X[2] (United Nations, *Treaty Series*, II, No. 11, Vol. 1; *ibid.*, General Assembly, resolution 1786 (XVII)).

Agreement between the United Nations Educational, Scientific and Cultural Organization and France regarding the Headquarters of Unesco and the privileges and immunities of the Organization on French territory, 2 July 1954, Article 29 (United Nations, *Treaty Series*, I, No. 5103, Vol. 357).

6. World Health Organization

Constitution of the World Health Organization, 22 July 1946, Articles 75-77 (United Nations, *Treaty Series*, I, No. 221, Vol. 14).

Agreement between the United Nations and the World Health Organization, approved by the General Assembly of the United Nations on 15 November 1947, Article X (United Nations, *Treaty Series*, II, No. 115, Vol. 19).

7. International Bank for Reconstruction and Development, International Finance Corporation and International Development Association

Agreement between the United Nations and the International Bank for Reconstruction and Development, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 109, Vol. 16).

Agreement on relationship between the United Nations and the International Finance Corporation, approved by the General Assembly of the United Nations on 20 February 1957, paragraph 1 (United Nations, *Treaty Series*, II, No. 546, Vol 265).

Agreement on relationship between the United Nations and the International Development Association, approved by the General Assembly of the United Nations on 27 March 1961, Article I (United Nations, *Treaty Series*, II, No. 582, Vol. 394).

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[1] See also Rules of Procedure of the General Conference of Unesco, Rule 33, and the Protocol of 10 December 1962 instituting a Conciliation and Good Offices Commission to be responsible for seeking the settlement of any disputes which may arise between States parties to the Convention against Discrimination in Education, Article 18 (Unesco document 12C/Resolutions).

[2] Article XI before the revision of 1962.

8. International Monetary Fund

Agreement between the United Nations and the International Monetary Fund, approved by the General Assembly of the United Nations on 15 November 1947, Article VIII (United Nations, *Treaty Series*, II, No. 108, Vol. 16).

9. International Civil Aviation Organization

Convention on International Civil Aviation, 7 December 1944, Articles 84-86 (United Nations, *Treaty Series*, I, No. 10612, Vol. 740; ICAO, *Convention on International Civil Aviation*, 1969).

Agreement between the United Nations and the International Civil Aviation Organization, approved by the General Assembly of the United Nations on 14 December 1946, Article X (United Nations, *Treaty Series*, II, No. 45, Vol. 8).

Agreement between the International Civil Aviation Organization and Canada regarding the Headquarters of the Organization, 14 April 1951, Article VII, Section 31 (United Nations, *Treaty Series*, I, No. 1335, Vol. 96).

10. International Telecommunication Union

Agreement between the United Nations and the International Telecommunication Union, approved by the General Assembly of the United Nations on 15 November 1947, Article VII (United Nations, *Treaty Series*, II, No. 175, Vol. 30).

11. World Meteorological Organization

Agreement between the United Nations and the World Meteorological Organization, approved by the General Assembly of the United Nations on 20 December 1951, Article VII (United Nations, *Treaty Series*, II, No. 415, Vol. 123).

12. International Maritime Organization

Convention on the Inter-Governmental Maritime Consultative Organization, 6 March 1948, entered into force on 17 March 1958, Articles 55 and 56 (United Nations, *Treaty Series*, I, No. 4214, Vol. 289)[1].

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[1] As from 22 May 1982 the Inter-Governmental Maritime Consultative Organization (IMCO) became the International Maritime Organization (IMO); the name of the organization was changed in the title of the 1948 Convention and the relevant Articles of the Convention were re-numbered 69 and 70.

Agreement between the United Nations and the Inter-Governmental Maritime Consultative Organization, approved by the General Assembly of the United Nations on 18 November 1948, entered into force on 13 January 1959, Article IX (United Nations, *Treaty Series*, II, No. 553, Vol. 324).

13. World Intellectual Property Organization

Agreement between the United Nations and the World Intellectual Property Organization, approved by the General Assembly of the United Nations on 17 December 1974, Article 12 (United Nations, *Treaty Series*, II, No. 729).

14. International Fund for Agricultural Development

Agreement between the United Nations and the International Fund for Agricultural Development, approved by the General Assembly of the United Nations on 15 December 1977, Article XIII (United Nations, *Treaty Series*, II, No. 806, Vol. 1080).

15. United Nations Industrial Development Organization

Constitution of the United Nations Industrial Development Organization, 8 April 1979, Article 22 (United Nations, *Treaty Series*, I, No. 23432, Vol. 1401).

Agreement between the United Nations Organization and the United Nations Industrial Development Organization, approved by the General Assembly of the United Nations on 17 December 1985, Article 12.

16. International Atomic Energy Agency

Statute of the International Atomic Energy Agency, 26 October 1956, Article XVII (United Nations, *Treaty Series*, I, No. 3988, Vol. 276).

Agreement concerning the relationship between the United Nations and the International Atomic Energy Agency, approved by the General Assembly of the United Nations on 14 November 1957, Article X (United Nations, *Treaty Series*, II, No. 548, Vol. 281).

Authorization to the International Atomic Energy Agency to request advisory opinions of the International Court of Justice: resolution 1146 (XII) of the General Assembly of the United Nations, 14 November 1957.

Agreement on the privileges and immunities of the International Atomic Energy Agency, approved by the Board of Governors of the Agency on 1 July 1959, Article X, Section 34 (United Nations, *Treaty Series*, I, No. 5334, Vol. 374).

Agreement between the International Atomic Energy Agency and Iraq, Lebanon, Libya, Tunisia, United Arab Republic, etc., for the establishment in Cairo of a Middle Eastern regional radio-isotope centre for the Arab countries, approved by the Board of Governors of the Agency on 14 September 1962, Article XVI (United Nations, *Treaty Series*, I, No. 7236, Vol. 494).

Nordic Mutual Emergency Assistance Agreement in connection with radiation accidents, signed on 17 October 1963 by the International Atomic Energy Agency, Denmark, Finland, Norway and Sweden, Article IX (United Nations, *Treaty Series*, I, No. 7585, Vol. 525).

II. Declarations Recognizing as Compulsory the Jurisdiction of the Court

The texts of declarations under Article 36, paragraph 2, of the Statute, which had not expired by effluxion of time, or whose withdrawal or replacement had not been notified by 31 July 1998 will be found below. The fact that a declaration is or is not included in this section, is without prejudice to its possible application by the Court in a particular case.

During the twelve months under review, Nigeria, on 30 April 1998 deposited a declaration amending its previous declaration, deposited on 3 September 1965.

In view of the provisions of Article 36, paragraph 5, of the Statute of the International Court of Justice, the present section also contains the texts of declarations made under the Statute of the *Permanent Court of International Justice* which have not lapsed or been withdrawn. There are now seven such declarations.

The declarations, deposited by a total of 60 States[1], are given here in English[2]. Where this is not the original language of the declaration, the translations used, except where otherwise indicated, are by the Secretariat of the United Nations or of the League of Nations.

The date shown after the name of the State is that on which the declaration was deposited.

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[1] Since 1951, twelve other declarations relating to the jurisdiction of the International Court of Justice, either expressly or by virtue of Article 36, paragraph 5, of the Statute, have expired, been withdrawn or been terminated without being subsequently replaced. These were the declarations of the following States: Bolivia, Brazil, China, El Salvador, France, Guatemala, Iran, Israel, South Africa, Thailand, Turkey and the United States (United Nations, *Treaty Series*, I, No. 261, Vol. 16; I, No. 237, Vol. 15; I, No. 5, Vol. 1; *I.C.J. Yearbook 1987-1988*, pp. 70-72; United Nations, *Treaty Series*, I, No. 8196, Vol. 562; I, No. 12, Vol. 1; *I.C.J. Yearbook 1946-1947*, p. 211; *I.C.J. Yearbook 1984-1985*, pp. 79-80; United Nations, *Treaty Series*, I, No. 2935, Vol. 216; I, No. 844, Vol. 65; I, No. 50, Vol. 4; *I.C.J. Yearbook 1984-1985*, pp. 99-100).

[2] French texts of the declarations are given in the French counterpart of the *I.C.J. Yearbook*, the *C.I.J. Annuaire*.

AUSTRALIA

17 III 75.

Whereas on the first day of November one thousand nine hundred and forty-five Australia ratified the Charter of the United Nations of which the Statute of the International Court of Justice is an integral part; and

Whereas Australia made a declaration under paragraph 2 of Article 36, of the said Statute on the sixth day of February, one thousand nine hundred and fifty-four[1]; and

Whereas Australia desires to withdraw the said declaration;

The Government of Australia hereby withdraws the said declaration and declares for and on behalf of Australia that it recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to withdraw this declaration.

The Government of Australia further declares that this declaration does not apply to any dispute in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement.

In witness whereof, I, Edward Gough Whitlam, Prime Minister acting for and on behalf of the Minister of State for Foreign Affairs of Australia, have hereunto set my hand and affixed the seal of the Minister of State for Foreign Affairs.

Dated this thirteenth day of March, one thousand nine hundred and seventy-five.

(Signed) E. G. WHITLAM,
Prime Minister acting for and on
behalf of the Minister of State for
Foreign Affairs of Australia.

AUSTRIA

19 V 71.

I hereby declare that the Republic of Austria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State which accepts or has accepted the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

This Declaration does not apply to any dispute in respect of which the parties thereto have agreed or shall agree to have recourse to other means of peaceful settlement for its final and binding decision.

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[1] United Nations, *Treaty Series*, I, No. 2484, Vol. 186.

This Declaration shall remain in force for a period of five years and thereafter until it will be terminated or modified by a written declaration.

Done at Vienna on 28 April 1971.

(Signed) JONAS,
The Federal President.

In witness whereof the present declaration has been countersigned by the Federal Chancellor and the Minister for Foreign Affairs and the national seal of the Republic of Austria has been affixed thereto.

(Signed) Bruno KREISKY,
The Federal Chancellor.
(Signed) Rudolf KIRCHSCHLAEGER,
The Federal Minister for Foreign Affairs.

BARBADOS

1 VIII 80.

I have the honour to declare on behalf of the Government of Barbados that:

The Government of Barbados accepts as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court until such time as notice might be given to terminate the acceptance, over all disputes arising after the declaration is made, other than:

(a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement,

(b) disputes with the government of any other country which is a Member of the Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree,

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Barbados,

(d) disputes arising out of or concerning jurisdiction or rights claimed or exercised by Barbados in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Barbados.

24 July 1980.

(Signed) H. de B. FORDE,
Minister of External Affairs.

BELGIUM[1]

[Translation from the French] 17 VI 58.

I declare on behalf of the Belgian Government that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in legal disputes arising after 13 July 1948 concerning situations or facts subsequent to that date, except those in regard to which the parties have agreed or may agree to have recourse to another method of pacific settlement.

This declaration is made subject to ratification[2]. It shall take effect on the day of deposit of the instrument of ratification for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Brussels, 3 April 1958.

(Signed) V. LAROCK,
Minister
for Foreign Affairs.

BOTSWANA

16 III 70.

I, Sir Seretse Khama, President of the Republic of Botswana, have the honour to declare on behalf of the Government of the Republic of Botswana, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Republic of Botswana.

The Government of the Republic of Botswana also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

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[1] Belgium had deposited in 1948 a declaration valid for five years (United Nations, *Treaty Series*, I, No. 260, Vol. 16).

[2] The instrument of ratification was deposited on 17 June 1958.

Done at Gaborone this 14th day of January in the year of our Lord one thousand nine hundred and seventy.

(Signed) Seretse M. KHAMA,
President.

BULGARIA

[Translation from the Bulgarian] 24 VI 1992.

On behalf of the Government of the Republic of Bulgaria, I have the honour to declare that in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice the Republic of Bulgaria recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes arising out of facts and situations subsequent to or continuing to exist after the entry into force of the present Declaration, concerning:

1. the interpretation of a treaty;
2. any question of international law;
3. the existence of any fact which, if established, would constitute a breach of an international obligation;
4. the nature or extent of the reparation to be made for the breach of an international obligation,

except for disputes with any State which has accepted the compulsory jurisdiction of the International Court of Justice under Article 36, paragraph 2, of the Statute less than twelve months prior to filing an application bringing the dispute before the Court or where such acceptance has been made only for the purpose of a particular dispute.

The Republic of Bulgaria also reserves the right at any time to modify the present Declaration, the modifications taking effect six months after the deposit of the notification thereof.

The present Declaration shall be in force for a period of five years from the date of its deposit with the Secretary-General of the United Nations. It shall continue in force thereafter until six months after a notice of its denunciation is given to the Secretary-General of the United Nations.

Sofia, 26 May 1992.

(Signed) S. GANEV,
Minister of Foreign Affairs
of the Republic of Bulgaria.

CAMBODIA

[Translation from the French] 19 IX 57.

On behalf of the Royal Government of Cambodia I have the honour to declare that, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State Member of the United Nations accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the said Court in all legal disputes, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(2) disputes with regard to questions which by international law fall exclusively within the jurisdiction of the Kingdom of Cambodia;
(3) disputes relating to any matter excluded from judicial settlement or compulsory arbitration by virtue of any treaty, convention or other international agreement or instrument to which the Kingdom of Cambodia is a party.

This declaration is valid for ten years from the date of its deposit. It shall remain in force thereafter until notice to the contrary has been given by the Royal Government of Cambodia.

Phnom-Penh, 9 September 1957.

(Signed) SIM VAR.

CAMEROON

[Translation from the French by the Registry] 3 III 94.

On behalf of the Government of the Republic of Cameroon, I have the honour to declare that:

The Government of the Republic of Cameroon, in accordance with Article 36, paragraph 2, of the Statute of the Court, recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes.

This declaration shall remain in force for a period of five years. It shall subsequently continue to produce effect until contrary notification or written amendment by the Government of the Republic of Cameroon.

(Signed) Ferdinand Léopold OYONO,
Minister for Foreign Affairs.

CANADA

10 V 94.

On behalf of the Government of Canada,

(1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 10 September 1985[1] in conformity with paragraph 2 of Article 36 of the Statute of the Court.

(2) I declare that the Government of Canada accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:

(a) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

(b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada; and

(d) disputes arising out of or concerning conservation and management measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area, as defined in the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries, 1978, and the enforcement of such measures.

(3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification be communicated to the Governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, 10 May 1994.

(Signed) Louise FRÉCHETTE,
Ambassador and
Permanent Representative.

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[1] *I.C.J. Yearbook 1992-1993*, pp. 79-80.

COLOMBIA[1]

[Translation from the French] 30 X 37.

The Republic of Colombia recognizes as compulsory, *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the Permanent Court of International Justice, in accordance with Article 36 of the Statute.

The present declaration applies only to disputes arising out of facts subsequent to 6 January 1932.

Geneva, 30 October 1937.

(Signed) J. M. YEPES,
Legal Adviser of the Permanent Delegation
of Colombia to the League of Nations.

COSTA RICA

[Translation from the Spanish] 20 II 73.

The Government of Costa Rica recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes of the kinds referred to in Article 36, paragraph 2, of the Statute of the International Court of Justice. This Declaration shall be valid for a period of five years and shall be understood to be tacitly renewed for like periods, unless denounced before the expiration of the said period.

San José, 5 February 1973.

(Signed) Gonzalo J. FACIO,
Minister for Foreign Affairs.

CYPRUS

29 IV 88.

I have the honour on behalf of the Government of the Republic of Cyprus to declare, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice, that the Republic of Cyprus accepts as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the Court, in relation to any other State accepting the same obligation, over all legal disputes concerning:

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[1] An instrument of ratification was deposited on 30 October 1937. Ratification was not required under the terms of the Optional Clause, the act of signature itself sufficing to make the undertaking binding, except where the declaration has been made expressly subject to ratification. Nevertheless, certain States, which had signed without any such reservation, subsequently ratified their declarations.

(a) the interpretation of any treaty –

  I. to which the Republic of Cyprus became a Party on or after 16 August 1960 or
  II. which the Republic of Cyprus recognizes as binding on it by succession;

(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

Provided that this declaration shall not apply:

(a) to disputes relating to questions which fall within the domestic jurisdiction of the Republic of Cyprus;
(b) where the declaration recognizing the compulsory jurisdiction of the International Court of Justice on behalf of any other Party to the dispute was deposited with the Secretary-General of the United Nations less than six months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Cyprus reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw this declaration or any of the foregoing reservations or any that may hereafter be added.

Nicosia, 19 April 1988.

(Signed) George IACOVOU,
Minister of Foreign Affairs.

DEMOCRATIC REPUBLIC OF THE CONGO

[Translation from the French] 8 II 89.

. . . in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice:

The Executive Council of the Republic of Zaire recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;

(d) the nature or extent of the reparation to be made for the breach of an international obligation.

It is understood further that this declaration will remain in force until notice of its revocation is given.

(Signed) Bagbeni Adeito NZENGEYA,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Zaire
to the United Nations.

DENMARK[1]

[Translation from the French] 10 XII 56.

In conformity with the Royal Decree of 3 December 1956, I have the honour, on behalf of the Danish Government, to make the following declaration:

Pursuant to Article 36, paragraph 2, of the Statute of the International Court of Justice, the Kingdom of Denmark recognizes as compulsory *ipso facto* and without special agreement the jurisdiction of the Court in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, for a period of five years from 10 December 1956 and thereafter for further periods of five years, if this declaration is not denounced by notice of not less than six months before the expiration of any five-year period.

New York, 10 December 1956.

(Signed) Karl I. ESKELUND,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative
to the United Nations.

DOMINICAN REPUBLIC

[Translation from the French] 30 IX 24.

On behalf of the Government of the Dominican Republic and subject to ratification[2], I recognize, in relation to any other Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

Geneva, 30 September 1924.

(Signed) Jacinto R. DE CASTRO.

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[1] This declaration replaced that of 10 December 1946, which had been made for a period of ten years as from that date (United Nations, *Treaty Series*, I, No. 10, Vol. 1).

[2] The instrument of ratification was deposited on 4 February 1933.

EGYPT

22 VII 57.

I, Mahmoud Fawzi, Minister for Foreign Affairs of the Republic of Egypt, declare on behalf of the Government of the Republic of Egypt, that, in accordance with Article 36 (2) of the Statute of the International Court of Justice and in pursuance and for the purposes of paragraph 9 *(b)* of the Declaration of the Government of the Republic of Egypt dated 24 April 1957, on "the Suez Canal and the arrangements for its operation"[1], the Government of the Republic of Egypt accept as compulsory *ipso facto*, on condition of reciprocity and without special agreement, the jurisdiction of the International Court of Justice in all legal disputes that may arise under the said paragraph 9 *(b)* of the above Declaration dated 24 April 1957, with effect as from that date.

18 July 1957.

(Signed) Mahmoud FAWZI.

ESTONIA

21 X 91.

I, Arnold Rüütel, Chairman of the Supreme Council of the Republic of Estonia, declare on behalf of the Republic of Estonia and in accordance with the Resolution of September 26, 1991 of the Supreme Council of the Republic of Estonia, that the Republic of Estonia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court,

provided that this declaration shall not apply to disputes, the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Tallinn, 10 October 1991.

(Signed) A. RÜÜTEL,
Chairman of the Supreme Council.

FINLAND

[Translation from the French] 25 VI 58.

On behalf of the Finnish Government, I hereby declare that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, for a period of five years from 25 June 1958. This declaration shall be renewed by tacit agreement for further periods of the same duration, unless it is denounced not later than six months before the expiry of any such period. This declaration shall apply only to disputes arising in regard to situations or facts subsequent to 25 June 1958.

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[1] United Nations, *Treaty Series*, I, No. 3821, Vol. 265.

New York, 25 June 1958.

(Signed) G. A. GRIPENBERG,
Permanent Representative of Finland
to the United Nations.

GAMBIA

22 VI 66.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare, on behalf of the Government of the Gambia, that the Gambia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice until such time as notice may be given to terminate the acceptance, over all disputes arising in the future concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

with the reservation, however, that this declaration does not apply to

(a) disputes in regard to which the parties have agreed to a settlement other than by recourse to the International Court of Justice;
(b) disputes with any country in the Commonwealth;
(c) disputes which, by international law, fall exclusively within the jurisdiction of the Gambia.

Bathurst, 14 June 1966.

(Signed) A. B. N'JIE,
Minister of State for External Affairs.

GEORGIA

20 VI 95.

I have the honour on behalf of the Republic of Georgia to declare that, in accordance with paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Republic of Georgia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in paragraph 2 of Article 36 of the Statute of the International Court of Justice.

Tbilisi, 16 June 1995.

(Signed) Alexander CHIKVAIDZE,
Minister of Foreign Affairs
of the Republic of Georgia.

GREECE

[Translation from the French] 10 I 94.

I declare, on behalf of the Greek Government, that I recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes referred to in Article 36, paragraph 2, of the Statute of the Court. However, the Greek Government excludes from the competence of the Court any dispute relating to defensive military action taken by the Hellenic Republic for reasons of national defence.

This declaration shall remain in force for a period of five years. Upon the expiry of that period, it shall continue to have effect until notice of its termination is given.

Athens, 20 December 1993.

(Signed) Karolos PAPOULIAS,
Minister for Foreign Affairs.

GUINEA-BISSAU

[Translation from the French] 7 VIII 89.

In accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, the Republic of Guinea-Bissau accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the Court in all legal disputes referred to in Article 36, paragraph 2, of the Statute thereof.

This declaration will remain in force until six months following the date on which the Government of Guinea-Bissau makes known its intention of terminating it.

New York, 7 August 1989.

(Signed) Raul A. DE MELO CABRAL,
Chargé d'affaires a.i.

HAITI

[Translation from the French] 4 X 21.

On behalf of the Republic of Haiti, I recognize the jurisdiction of the Permanent Court of International Justice as compulsory.

(Signed) F. ADDOR,
Consul.

HONDURAS

[Translation from the Spanish] 6 VI 86.

The Government of the Republic of Honduras, duly authorized by the National Congress under Decree No. 75-86 of 21 May 1986 to modify the Declaration made on 20 February 1960 concerning Article 36, paragraph 2, of the Statute of the International Court of Justice, *hereby declares* that it modifies the Declaration made by it on 20 February 1960[1] as follows:

1. It recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:
   - *(a)* the interpretation of a treaty;
   - *(b)* any question of international law;
   - *(c)* the existence of any fact which, if established, would constitute a breach of an international obligation;
   - *(d)* the nature or extent of the reparation to be made for the breach of an international obligation.
2. This Declaration shall not apply, however, to the following disputes to which the Republic of Honduras may be a party:
   - *(a)* disputes in respect of which the parties have agreed or may agree to resort to other means for the pacific settlement of disputes;
   - *(b)* disputes concerning matters subject to the domestic jurisdiction of the Republic of Honduras under international law;
   - *(c)* disputes relating to facts or situations originating in armed conflicts or acts of a similar nature which may affect the territory of the Republic of Honduras, and in which it may find itself involved directly or indirectly;
   - *(d)* disputes referring to:
     - (i) territorial questions with regard to sovereignty over islands, shoals and keys; internal waters, bays, the territorial sea and the legal status and limits thereof;

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[1] *I.C.J. Yearbook 1984-1985*, pp. 78-79.

(ii) all rights of sovereignty or jurisdiction concerning the legal status and limits of the contiguous zone, the exclusive economic zone and the continental shelf;
(iii) the airspace over the territories, waters and zones referred to in this subparagraph.

3. The Government of Honduras also reserves the right at any time to supplement, modify or withdraw this Declaration or the reservations contained therein by giving notice to the Secretary-General of the United Nations.
4. This Declaration replaces the Declaration made by the Government of Honduras on 20 February 1960.

National Palace, Tegucigalpa, D.C., 22 May 1986.

(Signed) José AZCONA H.,
President of the Republic.

(Signed) Carlos LÓPEZ CONTRERAS,
The Secretary of State for Foreign Affairs.

HUNGARY

22 X 92.

The Republic of Hungary hereby recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court in all disputes which may arise in respect of facts or situations subsequent to this declaration, other than:

(a) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(b) disputes in regard to matters which by international law fall exclusively within the domestic jurisdiction of the Republic of Hungary;
(c) disputes relating to, or connected with, facts or situations of hostilities, war, armed conflicts, individual or collective actions taken in self-defence or the discharge of any functions pursuant to any resolution or recommendation of the United Nations, and other similar or related acts, measures or situations in which the Republic of Hungary is, has been or may in the future be involved;
(d) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the Court only in relation to or for the purpose of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of the Republic of Hungary reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect of six months of such notification to amend, add to or withdraw any of the foregoing reservations or any that may hereafter be added.

This declaration shall remain in force until the expiration of six months after notification has been given of its termination.

Budapest, 7 October 1992.

(Signed) Dr. GÉZA JESZENSZKY,
Minister for Foreign Affairs
of the Republic of Hungary.

INDIA

18 IX 74.

I have the honour to declare, on behalf of the Government of the Republic of India, that they accept, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction of the International Court of Justice over all disputes other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) disputes with the government of any State which is or has been a Member of the Commonwealth of Nations;

(3) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of India;

(4) disputes relating to or connected with facts or situations of hostilities, armed conflicts, individual or collective actions taken in self-defence, resistance to aggression, fulfilment of obligations imposed by international bodies, and other similar or related acts, measures or situations in which India is, has been or may in future be involved;

(5) disputes with regard to which any other party to a dispute has accepted the compulsory jurisdiction of the International Court of Justice exclusively for or in relation to the purposes of such dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of a party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court;

(6) disputes where the jurisdiction of the Court is or may be founded on the basis of a treaty concluded under the auspices of the League of Nations, unless the Government of India specially agree to jurisdiction in each case;

(7) disputes concerning the interpretation or application of a multilateral treaty unless all the parties to the treaty are also parties to the case before the Court or Government of India specially agree to jurisdiction;

(8) disputes with the government of any State with which, on the date of an application to bring a dispute before the Court, the Government of India has no diplomatic relations or which has not been recognized by the Government of India;

(9) disputes with non-sovereign States or territories;

(10) disputes with India concerning or relating to:

  (a) the status of its territory or the modification or delimitation of its frontiers or any other matter concerning boundaries;

  (b) the territorial sea, the continental shelf and the margins, the exclusive fishery zone, the exclusive economic zone, and other zones of national maritime jurisdiction including for the regulation and control of marine pollution and the conduct of scientific research by foreign vessels;

  (c) the condition and status of its islands, bays and gulfs and that of the bays and gulfs that for historical reasons belong to it;

  (d) the airspace superjacent to its land and maritime territory; and

  (e) the determination and delimitation of its maritime boundaries.

(11) disputes prior to the date of this declaration, including any dispute the foundations, reasons, facts, causes, origins, definitions, allegations or bases of which existed prior to this date, even if they are submitted or brought to the knowledge of the Court hereafter.

2. This declaration revokes and replaces the previous declaration made by the Government of India on 14 September 1959[1].

New Delhi, 15 September 1974.

(Signed) Swaran SINGH,
Minister for External Affairs.

JAPAN

15 IX 58.

I have the honour, by direction of the Minister for Foreign Affairs, to declare on behalf of the Government of Japan, that in conformity with paragraph 2 of Article 36 of the Statute of the International Court of

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[1] United Nations, *Treaty Series*, I, No. 4871, Vol. 340.

Justice, Japan recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and on condition of reciprocity, the jurisdiction of the International Court of Justice, over all disputes which arise on and after the date of the present declaration with regard to situations or facts subsequent to the same date and which are not settled by other means of peaceful settlement.

This declaration does not apply to disputes which the parties thereto have agreed or shall agree to refer for final and binding decision to arbitration or judicial settlement.

This declaration shall remain in force for a period of five years and thereafter until it may be terminated by a written notice.

New York, 15 September 1958.

(Signed) Koto MATSUDAIRA,
Permanent Representative of Japan
to the United Nations.

KENYA

19 IV 65.

I have the honour to declare, on behalf of the Government of the Republic of Kenya that it accepts, in conformity with paragraph 2 of Article 36 of the Statute of the International Court of Justice until such time as notice may be given to terminate such acceptance, as compulsory *ipso facto* and without special agreement, and on the basis and condition of reciprocity, the jurisdiction over all disputes arising after 12 December 1963 with regard to situations or facts subsequent to that date, other than:

(1) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method or methods of settlement;

(2) dispute with the government of any State which, on the date of this Declaration is a Member of the Commonwealth of Nations or may so become subsequently;

(3) disputes with regard to questions which by general rules of international law fall exclusively within the jurisdiction of Kenya;

(4) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of the Republic of Kenya have accepted obligations.

The Government of the Republic of Kenya reserves the right at any time by means of a notification addressed to the Secretary-General of the

United Nations to add to, amend, or withdraw any of the foregoing reservations. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Nairobi, 12 April 1965.

(Signed) Joseph MURUMBI,
Minister for External Affairs.

LIBERIA

20 III 52.

On behalf of the Government of the Republic of Liberia, I, Gabriel L. Dennis, Secretary of State of Liberia, subject to ratification, declare that the Republic of Liberia recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State, also a party to the Statute pursuant to Article 93 of the United Nations Charter, which accepts the same obligation (i.e., subject to reciprocity), the jurisdiction of the International Court of Justice in all legal disputes arising after ratification concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration does not apply:

(a) to any dispute which the Republic of Liberia considers essentially within its domestic jurisdiction;
(b) to any dispute in regard to which the parties have agreed or may agree to bring before other tribunals as a result of agreements already existing or which may be made in the future.

The present declaration has been made for a period of five years as from the date of deposit of the ratification[1] and thereafter until notice of termination is given.

Done at Monrovia this 3rd day of March 1952.

(Signed) Gabriel L. DENNIS,
Secretary of State.

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[1] The instrument of ratification, dated 30 March 1953, was deposited on 17 April 1953.

LIECHTENSTEIN

[Translation from the French] 29 III 50.

The Government of the Principality of Liechtenstein, duly authorized by His Serene Highness, the Reigning Prince François Joseph II, in accordance with the Order of the Diet of the Principality of Liechtenstein dated 9 March 1950, which came into force on 10 March 1950,

declares by these presents that the Principality of Liechtenstein recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Principality becomes a party to the Statute[1] and shall have effect as long as the declaration has not been revoked subject to one year's notice.

Done at Vaduz, 10 March 1950.

On behalf of the Government of
the Principality of Liechtenstein,
(Signed) A. FRICK,
The Head of Government.

LUXEMBOURG[2]

[Translation from the French] 15 IX 30.

The Government of the Grand-Duchy of Luxembourg recognizes as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say on condition of reciprocity, the jurisdiction of the Court in conformity with Article 36, paragraph 2, of the Statute, in any disputes arising after the signature of the present declaration with regard to situations or facts subsequent to this signature, except in cases where the parties have agreed or shall agree to have recourse to another procedure or to another method of pacific settlement. The present declaration is made for a period of five years. Unless it is denounced six months before the expiration of that period, it shall be considered as renewed for a further period of five years and similarly thereafter.

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[1] Liechtenstein became a party to the Statute of the Court on 29 March 1950.

[2] The Government of Luxembourg had in 1921 signed the Optional Clause subject to ratification. That declaration was, however, never ratified.

Geneva, 15 September 1930.

(Signed) **Bech.**

Madagascar

[Translation from the French] 2 VII 92.

On behalf of the Government of Madagascar, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that Madagascar accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and until such time as notice may be given to terminate this acceptance, the compulsory jurisdiction of the Court in all legal disputes concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration does not apply:

- to disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes relating to questions which, under international law, fall exclusively within the jurisdiction of Madagascar.

The Government of Madagascar also reserves the right to add to, amend or withdraw the foregoing reservations by means of a notification addressed to the Secretary-General of the United Nations, which would take effect on the date of its receipt by the Secretary-General.

Antananarivo, 12 May 1992.

(Signed) Césaire **Rabenoro,**
Minister for Foreign Affairs.

MALAWI

12 XII 66.

On behalf of the Government of Malawi, I declare under Article 36, paragraph 2, of the Statute of the International Court of Justice that I recognize as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, on condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes which may arise in respect of facts or situations subsequent to this declaration concerning –

(*a*) the interpretation of a treaty;
(*b*) any question of international law;
(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;
(*d*) the nature or extent of the reparation to be made for the breach of an international obligation:

Provided that this declaration shall not apply to –

(i) disputes with regard to matters which are essentially within the domestic jurisdiction of the Republic of Malawi as determined by the Government of Malawi;
(ii) disputes in regard to which the parties of the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement; or
(iii) disputes concerning any question relating to or arising out of belligerent or military occupation.

The Government of Malawi also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend, or withdraw any of the foregoing reservations or any that may hereafter be added. Such notifications shall be effective on the date of their receipt by the Secretary-General of the United Nations.

Given under my hand in Zomba this 22nd day of November 1966.

(*Signed*) H. KAMUZU BANDA,
President and
Minister for External Affairs.

MALTA[1]

6 XII 66.

I have the honour to declare, on behalf of the Government of Malta, that Malta accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

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[1] By letter of 13 May 1983 to the Secretary-General of the United Nations, the Minister for Foreign Affairs notified the withdrawal, with immediate effect, of a declaration concerning a particular category of disputes which was filed on 23 January 1981 and which is reproduced in *I.C.J. Yearbook 1981-1982*, p. 78.

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes with the government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the Parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Malta;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Malta have accepted obligations;

(v) disputes arising under a multilateral treaty, unless (1) all Parties to the treaty affected by the decision are also Parties to the case before the Court, or (2) the Government of Malta specially agrees to jurisdiction;

(vi) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Malta is a Party;

(vii) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(viii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Valletta, 29 November 1966.

(Signed) G. FELICE,
Acting Minister of Commonwealth
and Foreign Affairs.

2 IX 83.

I have the honour to refer to the declaration made by the Government of Malta on 29 November 1966, and notified on 6 December 1966, concerning the compulsory jurisdiction of the International Court of Justice and to give notice that, with effect from the moment this notification is received by Your Excellency, the acceptance of the Government of Malta of the jurisdiction of the Court shall be limited to all disputes with Malta other than

(1) the disputes mentioned in paragraphs (i) to (viii) both inclusive, of the said declaration, and
(2) the following categories of disputes, that is to say:

Disputes with Malta concerning or relating to:

(a) its territory, including the territorial sea, and the status thereof,
(b) the continental shelf or any other zone of maritime jurisdiction, and the resources thereof,
(c) the determination or delimitation of any of the above,
(d) the prevention or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Malta.

The Government of Malta also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

(Signed) Alex SCEBERAS TRIGON,
Minister for Foreign Affairs.

MAURITIUS

23 IX 68.

I have the honour to declare, on behalf of the Government of Mauritius, that Mauritius accepts as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes other than:

(i) disputes in regard to which the Parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;
(ii) disputes with the Government of any other country which is a Member of the British Commonwealth of Nations, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;

(iii) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Mauritius;

(iv) disputes concerning any question relating to or arising out of belligerent or military occupation or the discharge of any functions pursuant to any recommendation or decision of an organ of the United Nations, in accordance with which the Government of Mauritius has accepted obligations;

(v) disputes relating to any matter excluded from compulsory adjudication or arbitration under any treaty, convention or other international agreement or instrument to which Mauritius is a party;

(vi) disputes in respect of which arbitral or judicial proceedings are taking, or have taken place with any State which, at the date of the commencement of the proceedings, had not itself accepted the compulsory jurisdiction of the International Court of Justice; and

(vii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

The Government of Mauritius also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification either to add to, amend or withdraw any of the foregoing reservations or any that may hereafter be added.

Port Louis, 4 September 1968.

(Signed) S. RAMGOOLAM,
Prime Minister and
Minister for External Affairs.

MEXICO

[Translation from the Spanish] 28 X 47.

In regard to any legal dispute that may in future arise between the United States of Mexico and any other State out of events subsequent to the date of this Declaration, the Mexican Government recognizes as compulsory *ipso facto*, and without any special agreement being required therefor, the jurisdiction of the International Court of Justice in accordance with Article 36, paragraph 2, of the Statute of the said Court, in relation to any other State accepting the same obligation, that is, on condition of strict reciprocity. This Declaration, which does not apply to disputes arising from matters that, in the opinion of the Mexican

Government, are within the domestic jurisdiction of the United States of Mexico, shall be binding for a period of five years as from 1 March 1947 and after that date shall continue in force until six months after the Mexican Government gives notice of denunciation.

Mexico, D.F., 23 October 1947.

(Signed) Jaime TORRES BODET,
Secretary of State for External Relations.

NAURU

9 IX 92.

On behalf of the Government of the Republic of Nauru, I have the honour to refer to the Republic's Declaration dated 30 December 1987[1], deposited with the United Nations Secretary-General on 29 January 1988, whereby the Republic has accepted as compulsory, *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the Court, and stipulated that the acceptance of the Court's jurisdiction shall extend to all disputes to which the Republic is or may be a party, other than any dispute with respect to which there exists a dispute settlement mechanism under an agreement between the Republic of Nauru and another State.

I have the further honour to declare that the aforesaid Declaration shall stand renewed and extended on 29 January 1993 and continue to be in force for a further period of five years from that date.

In witness whereof, I set my hand and the Common Seal of the Republic of Nauru, this fourth day of the month of September one thousand nine hundred and ninety-two.

(Signed) Hammer DEROBURT,
President
and Minister for External Affairs,
Republic of Nauru.

NETHERLANDS

[Translation from the French] 1 VIII 56.

I hereby declare that the Government of the Kingdom of the Netherlands recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from 6 August 1956, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of said Court in all disputes arising or which may arise after 5 August 1921, with the exception of disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, may have agreed to have recourse to some other method of pacific settlement.

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[1] *I.C.J. Yearbook 1987-1988*, p. 84.

The aforesaid obligation is accepted for a period of five years and will be renewed by tacit agreement for additional periods of five years, unless notice is given, not less than six months before the expiry of any such period, that the Government of the Kingdom of the Netherlands does not wish to renew it.

The acceptance of the jurisdiction of the Court founded on the declaration of 5 August 1946[1] is terminated with effect from 6 August 1956.

New York, 1 August 1956.

(Signed) E. L. C. SCHIFF,
Acting Permanent Representative of the
Kingdom of the Netherlands to the United Nations.

NEW ZEALAND

22 IX 77.

I have the honour, by direction of the Minister of Foreign Affairs of New Zealand, to declare on behalf of the Government of New Zealand:

(I) The acceptance by the Government of New Zealand of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 1 April 1940[2] under Article 36 of the Statute of the Permanent Court of International Justice and made applicable to the International Court of Justice by paragraph 5 of Article 36 of the Statute of that Court, is hereby terminated.

(II) The Government of New Zealand accept as compulsory, *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Court over all disputes other than:

  (1) disputes in regard to which the parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

  (2) disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute: or

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[1] United Nations, *Treaty Series*, I, No. 2, Vol. 1.

[2] *I.C.J. Yearbook 1976-1977*, pp. 69 f.

where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court;

(3) disputes arising out of, or concerning, the jurisdiction or rights claimed or exercised by New Zealand in respect of the exploration, exploitation, conservation or management of the living resources in marine areas beyond and adjacent to the territorial sea of New Zealand but within 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

This Declaration shall remain in force for a period of five years from 22 September 1977 and thereafter until the expiration of six months after notice has been given of the termination of this Declaration provided that the Government of New Zealand reserves the right at any time to amend this Declaration in the light of the results of the Third United Nations Conference on the Law of the Sea in respect of the settlement of disputes.

New York, 22 September 1977.

(Signed) M. J. C. TEMPLETON,
Permanent Representative of
New Zealand to the United Nations.

NICARAGUA[1]

[Translation from the French] 24 IX 29.

On behalf of the Republic of Nicaragua I recognize as compulsory unconditionally the jurisdiction of the Permanent Court of International Justice.

Geneva, 24 September 1929.

(Signed) T. F. MEDINA.

NIGERIA

30 IV 98.

I have the honour, on behalf of the Government of the Federal Republic of Nigeria, to declare that the acceptance by the Government of the Federal Republic of Nigeria of the compulsory jurisdiction of the International Court of Justice by virtue of the Declaration made on 14 August 1965 under Article 36 of the Statute of the Court is hereby amended so as to read as set out in the following paragraph:

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[1] See the Court's Judgment of 26 November 1984 (*I.C.J. Reports 1984*, p. 392).

In conformity with paragraph 2 of Article 36 of the Statute, the Government of the Federal Republic of Nigeria accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on condition of reciprocity, the jurisdiction of the Court over all legal disputes referred to in that paragraph of the Statute, other than:

(i) disputes in respect of which any party to the dispute has accepted the jurisdiction of the Court by a Declaration deposited less than twelve months prior to the filing of an Application bringing the dispute before the Court after the date of this amended Declaration;

(ii) disputes in respect of which any party has filed an Application in substitution for or in lieu of all or any part of any Application to which subparagraph (i) refers;

(iii) disputes relating to matters which are essentially within the domestic jurisdiction of the Federal Republic of Nigeria;

(iv) disputes in respect of which any other party to the dispute has accepted the jurisdiction of the Court in relation to or for the purposes of the dispute;

(v) disputes in regard to which the parties have agreed or agree to have recourse to any other method of peaceful settlement;

(vi) disputes relating to or connected with facts or situations of hostilities or armed conflict, whether internal or international in character;

(vii) disputes with any State with which the Government of Nigeria does not have diplomatic relations;

(viii) disputes concerning the allocation, delimitation or demarcation of territory (whether land, maritime, lacustrine or superjacent air space) unless the Government of Nigeria specially agrees to such jurisdiction and within the limits of any such special agreement;

(ix) disputes in relation to matters which arose prior to the date of Nigeria's independence, including any dispute the causes, origins or bases of which arose prior to that date.

The Government of the Federal Republic of Nigeria further reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect from the moment of such notification, to add to, amend or withdraw this Declaration or the reservations contained therein or any that may hereafter be added.

Done at Abuja, this 29th day of April 1998.

(Signed) Chief Tom Ikimi,
Hon. Minister of Foreign Affairs,
Federal Republic of Nigeria.

NORWAY[1]

25 VI 96.

I hereby declare on behalf of the Royal Norwegian Government that Norway recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court, for a period of five years as from 3 October 1976. This declaration shall thereafter be tacitly renewed for additional periods of five years, unless notice of termination is given not less than six months before the expiration of the current period; provided, however, that the limitations and exceptions relating to the settlement of disputes pursuant to the provisions of, and the Norwegian declarations applicable at any given time to, the United Nations Convention on the Law of the Sea of 10 December 1982 and the Agreement of 4 December 1995 for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, shall apply to all disputes concerning the law of the sea.

New York, 24 June 1996.

(Signed) Hans Jacob Biørn LIAN,
Permanent Representative of
Norway to the United Nations.

PAKISTAN[2]

13 IX 60.

I have the honour, by direction of the President of Pakistan, to make the following declaration on behalf of the Government of Pakistan under Article 36, paragraph 2, of the Statute of the International Court of Justice:

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[1] This is the text of the declaration as amended by letter of 24 June 1996 received by the Secretary-General of the United Nations on the following day. The first paragraph of that letter read as follows:

> "On behalf of the Government of Norway,
>
> I give notice that I hereby amend the acceptance by Norway of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 2 April 1976 in conformity with paragraph 2 of Article 36 of the Statute of the Court. As amended, the declaration shall read . . ."

The declaration of 1976 replaced that of 17 December 1956 (United Nations, *Treaty Series*, I, No. 3642, Vol. 256).

[2] This declaration replaced that of 23 May 1957 (United Nations, *Treaty Series*, I, No. 3875, Vol. 269) notice of the withdrawal and termination of which was given by letter of 12 September 1960 received on the following day by the Secretary-General of the United Nations.

The Government of Pakistan recognize as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes after 24 June 1948, arising, concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that the declaration shall not apply to:

(a) disputes the solution of which the parties shall entrust to other tribunals by virtue of agreements already in existence or which may be concluded in the future; or
(b) disputes relating to questions which by international law fall exclusively within the domestic jurisdiction of Pakistan;
(c) disputes arising under a multilateral treaty unless
    (i) all parties to the treaty affected by the decision are also parties to the case before the Court, or
    (ii) the Government of Pakistan specially agree to jurisdiction; and

provided further, that this Declaration shall remain in force till such time as notice may be given to terminate it.

New York, 12 September 1960.

(Signed) Said HASAN,
Ambassador Extraordinary and Plenipotentiary,
Permanent Representative of Pakistan to the
United Nations.

PANAMA[1]

[Translation from the French] 25 X 21.

On behalf of the Government of Panama, I recognize, in relation to any other Member or State which accepts the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without any special convention.

Paris, 25 October 1921.

(Signed) R. A. AMADOR,
Chargé d'affaires.

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[1] An instrument of ratification was deposited on 14 June 1929. Cf. the footnote to Colombia, p. 90, above.

PARAGUAY

[Translation from the Spanish] 25 IX 96.

Whereas the Republic of Paraguay signed the Charter of the United Nations on 26 June 1945 in San Francisco and ratified it on 12 October of that year,

Having seen and examined the text of the Statute of the International Court of Justice, principal judicial organ of the United Nations, whose Article 36, paragraph 2, stipulates that States parties to the Statute may declare at any time and without special agreement that they recognize as compulsory the jurisdiction of the Court,

And whereas the National Congress agreed to recognize this by means of Act No. 913 of 7 August 1996,

Therefore:

I hereby accept on behalf of the Government of Paraguay the compulsory jurisdiction of the International Court of Justice, with headquarters at The Hague, reciprocally in relation to other States accepting the same obligation in respect of all disputes as provided for in Article 36, paragraph 2, of the Statute of the Court. The present declaration shall apply only to disputes arising subsequent to the date of this declaration.

In witness whereof I hereby sign this declaration, which is sealed with the national Seal and countersigned by the Minister for Foreign Affairs, Rubén Melgarejo Lanzoni, in the city of Asunción, capital of the Republic of Paraguay, on 17 September 1996.

(Signed) Juan Carlos WASMOSY,
President.

(Signed) Rubén MELGAREJO LANZONI,
Minister for Foreign Affairs.

PHILIPPINES[1]

18 I 72.

I, Carlos P. Romulo, Secretary of Foreign Affairs of the Republic of the Philippines, hereby declare, under Article 36, paragraph 2, of the Statute of the International Court of Justice, that the Republic of the Philippines recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes arising hereafter concerning:

(a) the interpretation of a treaty;
(b) any question of international law;

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[1] This declaration replaced that of 12 July 1947 (United Nations, *Treaty Series*, I, No. 101, Vol. 7).

(*c*) the existence of any fact which, if established, would constitute a breach of an international obligation;

(*d*) the nature or extent of the reparation to be made for the breach of an international obligation;

Provided, that this declaration shall not apply to any dispute –

(*a*) in regard to which the parties thereto have agreed or shall agree to have recourse to some other method of peaceful settlement; or

(*b*) which the Republic of the Philippines considers to be essentially within its domestic jurisdiction; or

(*c*) in respect of which the other party has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of such dispute; or where the acceptance of the compulsory jurisdiction was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court; or

(*d*) arising under a multilateral treaty, unless (1) all parties to the treaty are also parties to the case before the Court, or (2) the Republic of the Philippines specially agrees to jurisdiction; or

(*e*) arising out of or concerning jurisdiction or rights claimed or exercised by the Philippines –

  (i) in respect of the natural resources, including living organisms belonging to sedentary species, of the sea-bed and subsoil of the continental shelf of the Philippines, or its analogue in an archipelago, as described in Proclamation No. 370 dated 20 March 1968 of the President of the Republic of the Philippines; or

  (ii) in respect of the territory of the Republic of the Philippines, including its territorial seas and inland waters; and

Provided, further, that this declaration shall remain in force until notice is given to the Secretary-General of the United Nations of its termination.

Done at Manila this 23rd day of December 1971.

(Signed) Carlos P. ROMULO,
Secretary of Foreign Affairs.

POLAND

25 III 96.

On behalf of the Government of the Republic of Poland I hereby declare that the Republic of Poland withdraws its consent to the compulsory jurisdiction of the International Court of Justice communicated on 25 September 1990[1] in light of Article 36, paragraph 2, of the Statute of the

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[1] *I.C.J. Yearbook 1994-1995*, pp. 109-110.

Court. At the same time, I hereby declare that the Republic of Poland shall recognize with the effect as of 25 September 1996, in accordance with the provisions of the aforementioned article, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation and subject to the sole condition of reciprocity, the jurisdiction of the International Court of Justice in all legal disputes other than:

(a) disputes prior to 25 September 1990 or disputes arisen out of facts or situations prior to the same date,
(b) disputes with regard to the territory and State boundaries,
(c) disputes with regard to environmental protection,
(d) disputes with regard to foreign liabilities or debts,
(e) disputes with regard to any State which has made a declaration accepting the compulsory jurisdiction of the International Court of Justice less than twelve months prior to the filing of the application bringing the dispute before the Court,
(f) disputes in respect whereof the parties have agreed or shall agree to have recourse to other method of peaceful settlement,
(g) disputes relating to matters which, by international law, fall exclusively within the domestic jurisdiction of the Republic of Poland.

The Government of the Republic of Poland reserves its right to withdraw or modify the present Declaration at any time and by means of a notification addressed to the Secretary-General of the United Nations, taking effect after six months from the moment whereof.

25 March 1996.

(Signed) Dariusz ROSATI,
Minister of Foreign Affairs.

PORTUGAL

19 XII 55.

Under Article 36, paragraph 2, of the Statute of the International Court of Justice, I declare on behalf of the Portuguese Government that Portugal recognizes the jurisdiction of this Court as compulsory *ipso facto* and without special agreement, as provided for in the said paragraph 2 of Article 36 and under the following conditions:

(1) the present declaration covers disputes arising out of events both prior and subsequent to the declaration of acceptance of the "optional clause" which Portugal made on 16 December 1920 as a party to the Statute of the Permanent Court of International Justice;
(2) the present declaration enters into force at the moment it is deposited with the Secretary-General of the United Nations; it shall be valid for a period of one year, and thereafter until notice of its denunciation is given to the said Secretary-General;

(3) the Portuguese Government reserves the right to exclude from the scope of the present declaration, at any time during its validity, any given category or categories of disputes, by notifying the Secretary-General of the United Nations and with effect from the moment of such notification.

Washington, D.C., 19 December 1955.

(Signed) L. ESTEVES FERNANDES.

SENEGAL[1]

[Translation from the French] 2 XII 85.

I have the honour, on behalf of the Government of the Republic of Senegal, to declare that, in conformity with Article 36, paragraph 2, of the Statute of the International Court of Justice, it accepts on condition of reciprocity as compulsory *ipso facto* and without special convention, in relation to any other State accepting the same obligation, the jurisdiction of the Court over all legal disputes arising after the present declaration, concerning:

- the interpretation of a treaty;
- any question of international law;
- the existence of any fact which, if established, would constitute a breach of an international obligation;
- the nature or extent of the reparation to be made for the breach of international obligation.

This declaration is made on condition of reciprocity on the part of all States. However, Senegal may reject the Court's competence in respect of:

- disputes in regard to which the parties have agreed to have recourse to some other method of settlement;
- disputes with regard to questions which, under international law, fall exclusively within the jurisdiction of Senegal.

Lastly, the Government of the Republic of Senegal reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, to add to, amend or withdraw the foregoing reservations.

Such notification would take effect on the date of its receipt by the Secretary-General.

Dakar, 22 October 1985.

(Signed) Ibrahima FALL,
Minister of Foreign Affairs
of the Republic of Senegal.

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[1] This declaration replaced that of 3 May 1985 (*I.C.J. Yearbook 1984-1985*, p. 93).

SOMALIA

11 IV 63.

I have the honour to declare on behalf of the Government of the Somali Republic that the Somali Republic accepts as compulsory *ipso facto*, and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all legal disputes arising other than disputes in respect of which any other party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purposes of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other party to the dispute was deposited or ratified less than 12 months prior to the filing of the application bringing the dispute before the Court.

The Somali Republic also reserves the right at any time by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

Mogadishu, 25 March 1963.

(Signed) Abdullahi ISSA,
Minister for Foreign Affairs.

SPAIN

[Translation from the Spanish] 29 X 90.

1. On behalf of the Spanish Government, I have the honour to declare that the Kingdom of Spain accepts as compulsory *ipso facto* and without special agreement, the jurisdiction of the International Court of Justice, in conformity with Article 36, paragraph 2, of the Statute of the Court, in relation to any other State accepting the same obligation, on condition of reciprocity, in legal disputes not included among the following situations and exceptions:

(a) disputes in regard to which the Kingdom of Spain and the other party or parties have agreed or shall agree to have recourse to some other method of peaceful settlement of the dispute;

(b) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court only in relation to or for the purposes of the dispute in question;

(c) disputes in regard to which the other party or parties have accepted the compulsory jurisdiction of the Court less than 12 months prior to the filing of the application bringing the dispute before the Court;

(d) disputes arising prior to the date on which this Declaration was deposited with the Secretary-General of the United Nations or relating to events or situations which occurred prior to that date, even if

such events or situations may continue to occur or to have effects thereafter.

2. The Kingdom of Spain may at any time, by means of a notification addressed to the Secretary-General of the United Nations, add to, amend or withdraw, in whole or in part, the foregoing reservations or any that may hereafter be added. These amendments shall become effective on the date of their receipt by the Secretary-General of the United Nations.

3. The present Declaration, which is deposited with the Secretary-General of the United Nations in conformity with Article 36, paragraph 4, of the Statute of the International Court of Justice, shall remain in force until such time as it has been withdrawn by the Spanish Government or superseded by another declaration by the latter.

The withdrawal of the Declaration shall become effective after a period of six months has elapsed from the date of receipt by the Secretary-General of the United Nations of the relevant notification by the Spanish Government. However, in respect of States which have established a period of less than six months between notification of the withdrawal of their Declaration and its becoming effective, the withdrawal of the Spanish Declaration shall become effective after such shorter period has elapsed.

Madrid, 15 October 1990.

(Signed) Francisco FERNÁNDEZ ORDÓÑEZ,
Minister for Foreign Affairs.

SUDAN

2 I 58.

I have the honour by direction of the Ministry of Foreign Affairs to declare, on behalf of the Government of the Republic of the Sudan, that in pursuance of paragraph 2 of Article 36 of the Statute of the International Court of Justice, the Government of the Republic of the Sudan recognize as compulsory *ipso facto* and without special agreement, on condition of reciprocity, until such time as notice may be given to terminate this declaration, the jurisdiction of the International Court of Justice in all legal disputes arising after the first day of January 1956 with regard to situations or facts subsequent to that date concerning:

(a) the interpretation of a treaty concluded or ratified by the Republic of the Sudan on or after the first day of January 1956;
(b) any question of international law;
(c) the existence of any fact, which, if established, would constitute a breach of an international obligation; or
(d) the nature or extent of the reparation to be made for the breach of an international obligation;

but excluding the following:

(i) disputes in regard to which the parties to the dispute have agreed or shall agree to have recourse to some other method of peaceful settlement;

(ii) disputes in regard to matters which are essentially within the domestic jurisdiction of the Republic of the Sudan as determined by the Government of the Republic of the Sudan;

(iii) disputes arising out of events occurring during any period in which the Republic of the Sudan is engaged in hostilities as a belligerent.

New York, 30 December 1957.

(Signed) Yacoub OSMAN,
Permanent Representative of the Sudan
to the United Nations.

SURINAME

31 VIII 87.

I have the honour by direction of the Minister of Foreign Affairs of the Republic of Suriname, to declare on behalf of the Government of Suriname:

The Government of the Republic of Suriname recognizes, in accordance with Article 36, paragraph 2, of the Statute of the International Court of Justice, with effect from the seventh September 1987, as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is on condition of reciprocity, the jurisdiction of the said Court in all disputes, which have arisen prior to this Declaration or may arise after this Declaration, with the exception of:

(A) disputes which have arisen or may arise with respect to or in relation with the borders of the Republic of Suriname;

(B) disputes in respect of which the parties, excluding the jurisdiction of the International Court of Justice, have agreed to settlement by means of arbitration, mediation or other methods of conciliation and accommodation.

This Declaration shall be binding for a period of five years and shall continue in force after that period until twelve months after the Government of the Republic of Suriname has given notice of its termination.

New York, 31 August 1987.

(Signed) W. H. Werner VREEDZAAM,
Chargé d'affaires of the Permanent Mission
of the Republic of Suriname
to the United Nations.

SWAZILAND

26 V 69.

I, Prince Makhosini Jameson Dlamini, Prime Minister of the Kingdom of Swaziland to whom His Majesty has delegated responsibility for the conduct of foreign affairs, have the honour to declare on behalf of the Government of the Kingdom of Swaziland, that it recognizes as compulsory *ipso facto* and without special agreement, on condition of reciprocity, the jurisdiction of the International Court of Justice, in accordance with paragraph 2 of Article 36 of the Statute of the Court.

This Declaration does not extend:

(a) to disputes in respect of which the parties have agreed or shall agree to have recourse to another means of peaceful settlement; or

(b) to disputes relating to matters which, by international law, are essentially within the domestic jurisdiction of the Kingdom of Swaziland.

The Government of the Kingdom of Swaziland also reserves the right to add to, amend or withdraw this Declaration by means of a notification addressed to the Secretary-General of the United Nations, with effect as from the moment of such notification.

Mbabane, 9 May 1969.

(Signed) Makhosini Jameson DLAMINI,
Prime Minister and Minister
for Foreign Affairs.

SWEDEN[1]

[Translation from the French] 6 IV 57.

On behalf of the Royal Swedish Government, I declare that it accepts as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice, in accordance with Article 36, paragraph 2, of the Statute of the said Court, for a period of five years as from 6 April 1957. This obligation shall be renewed by tacit agreement for further periods of the same duration unless notice of abrogation is made at least six months before the expiration of any such period. The abovementioned obligation is accepted only in respect of disputes which may arise with regard to situations or facts subsequent to 6 April 1947.

New York, 6 April 1957.

(Signed) Claes CARBONNIER,
Permanent Representative *a.i.*
of Sweden to the United Nations.

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[1] This declaration replaced that of 5 April 1947, which had been made for a period of ten years (United Nations, *Treaty Series*, I, No. 16, Vol. 2).

SWITZERLAND

[Translation from the French] 28 VII 48.

The Swiss Federal Council, duly authorized for that purpose by a Federal decree which was adopted on 12 March 1948 by the Federal Assembly of the Swiss Confederation and became operative on 17 June 1948,

Hereby declares that the Swiss Confederation recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, the jurisdiction of the International Court of Justice in all legal disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

This declaration, which is made under Article 36 of the Statute of the International Court of Justice, shall take effect from the date on which the Swiss Confederation becomes a party to that Statute[1] and shall have effect as long as it has not been abrogated subject to one year's notice.

Done at Berne, 6 July 1948.

On behalf of the Swiss Federal Council:

(Signed) CELIO,
The President of the Confederation.

(Signed) LEIMGRUBER,
The Chancellor of the Confederation.

TOGO

[Translation from the French] 25 X 1979.

The Togolese Republic,

Represented by His Excellency Mr. Akanyi-Awunyo Kodjovi, Ambassador Extraordinary and Plenipotentiary, Permanent Representative of Togo to the United Nations,

Acting pursuant to the provisions of Article 36, paragraphs 2 and 3, of the Statute of the International Court of Justice, annexed to the Charter of the United Nations,

Guided by its constant concern to ensure the peaceful and equitable settlement of all international disputes, particularly those in which it might be involved, and desiring to contribute to the strengthening of the international legal order based on the principles set forth in the Charter of the United Nations,

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[1] Switzerland became a party to the Statute of the Court on 28 July 1948.

Declares that it recognizes as compulsory *ipso facto* and without special agreement in relation to any other State accepting the same obligation, that is, subject to reciprocity, the jurisdiction of the International Court of Justice in all disputes concerning:

(a) the interpretation of a treaty;
(b) any question of international law;
(c) the existence of any fact which, if established, would constitute a breach of an international obligation;
(d) the nature or extent of the reparation to be made for the breach of an international obligation.

The present declaration has been made for an unlimited period subject to the power of denunciation and modification attached to any obligation assumed by a sovereign State in its international relations. It will enter into force on the day on which it is received by the United Nations Secretariat.

New York, 24 October 1979.

(Signed) Akanyi-Awunyo KODJOVI.

UGANDA

3 X 63.

I hereby declare on behalf of the Government of Uganda that Uganda recognizes as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, and on condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with paragraph 2 of Article 36 of the Statute of the Court.

New York, 3 October 1963.

(Signed) Apollo K. KIRONDE,
Ambassador and Permanent Representative
of Uganda to the United Nations.

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND[1]

1 I 69.

I have the honour, by direction of Her Majesty's Principal Secretary of State for Foreign and Commonwealth Affairs, to declare on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland that they accept as compulsory *ipso facto* and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after 24 October 1945, with regard to situations or facts subsequent to the same date, other than:

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[1] This declaration replaced that of 27 November 1963 (United Nations, *Treaty Series*, I, No. 6995, Vol. 482), notice of the withdrawal and termination of which was given by letter of 1 January 1969, received by the Secretary-General of the United Nations on that date.

(i) any dispute which the United Kingdom

  (a) has agreed with the other Party or Parties thereto to settle by some other method of peaceful settlement; or

  (b) has already submitted to arbitration by agreement with any State which had not at the time of submission accepted the compulsory jurisdiction of the International Court of Justice;

(ii) disputes with the government of any other country which is a Member of the Commonwealth with regard to situations or facts existing before 1 January 1969;

(iii) disputes in respect of which any other Party to the dispute has accepted the compulsory jurisdiction of the International Court of Justice only in relation to or for the purpose of the dispute; or where the acceptance of the Court's compulsory jurisdiction on behalf of any other Party to the dispute was deposited or ratified less than twelve months prior to the filing of the application bringing the dispute before the Court.

2. The Government of the United Kingdom also reserve the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

New York, 1 January 1969.

(Signed) L. C. GLASS.

URUGUAY[1]

[Translation from the French] *Prior to* 28 I 21[2].

On behalf of the Government of Uruguay, I recognize, in relation to any Member or State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the Court as compulsory, *ipso facto* and without special convention.

(Signed) B. FERNANDEZ Y MEDINA.

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[1] An instrument of ratification was deposited on 27 September 1921. Cf. the footnote to Colombia, p. 90, above.

[2] The date on which this declaration (undated) was first published in a League of Nations document.

III. CHRONOLOGICAL LIST OF OTHER INSTRUMENTS GOVERNING THE JURISDICTION OF THE COURT

Below is a chronological list of treaties and other instruments *notified to the Registry* following registration, classification or recording at the Secretariat of the United Nations which (in addition to certain texts referred to in Section I of the present chapter, the declarations reproduced in Section II and the special agreements whereby particular cases were submitted to the Court) contain clauses relating to the jurisdiction of the Court in contentious proceedings. Such clauses generally provide that disputes concerning the application or interpretation of the instrument may be referred to the Court for decision. For each instrument, the table mentions the date and place of signature, the title of the instrument, the relevant clause and the contracting parties, and also, as far as available, the number under which it has been registered or filed and recorded by the Secretariat and the volume in the United Nations *Treaty Series* in which it has been or will be published.

Where instruments prior to 1946 are mentioned they are instruments relating to the jurisdiction of the *Permanent Court of International Justice* which have been filed and recorded by the Secretariat of the United Nations and appear in the *Treaty Series* of the United Nations.

The fact that a treaty is or is not included in this section is without prejudice to its possible application by the Court in a particular case.

Any instrument not mentioned in previous *I.C.J. Yearbooks* is indicated by an asterisk.

1933	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
12 May	Ottawa	Convention concerning the rights of nationals and commercial and shipping matters (Art. 20)	Canada/France	II:545 Vol. 253
1939				
17 Dec.	Bogotá	Treaty of non-aggression, conciliation and judicial settlement (Art. XXIV)	Colombia/ Venezuela	II:896 Vol. 1257
1940				
30 Mar.	Caracas	Treaty for the pacific settlement of disputes	Brazil/Venezuela	II:195 Vol. 51
1944				
7 Dec.	Chicago	International air services transit agreement (Art. II, Sec. 2)	Multilateral	II:252 Vol. 84
7 Dec.	Chicago	International air transport agreement (Art. IV, Sec. 3)	Multilateral	II:502 Vol. 171
1946				
17 Apr.	Luxembourg	Convention concerning the Luxembourg railways (Art. 12)	Luxembourg/ Belgium/France	I:402 Vol. 27

1946 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
4 Nov.	Nanking	Treaty of friendship, commerce and navigation (Art. XXVIII)	China[1]/ United States	I:359 Vol. 25
11 Dec.[2]	Lake Success	International convention relating to dangerous drugs, signed at Geneva, 19 Feb. 1925, as amended (Art. 32)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for limiting the manufacture and regulating the distribution of narcotic drugs, signed at Geneva on 13 July 1931, as amended (Art. 25)	Multilateral	I:186 Vol. 12
11 Dec.[2]	Lake Success	International convention for the suppression of illicit traffic in dangerous drugs, signed at Geneva on 26 June 1936, as amended (Art. 17)	Multilateral	I:186 Vol. 12
1947				
18 Apr.	Manila	Treaty of amity (Art. 2)	China[1]/Philippines	I:175 Vol. 11
9 July	Rome	Treaty of friendship and general relations (Art. V)	Italy/Philippines	I:674 Vol. 44
17 Oct.	London	Treaty regarding recognition of Burmese independence (Art. 14)	United Kingdom/ Burma	I:904 Vol. 70
12 Nov.[2]	Lake Success	Convention (concluded at Geneva on 12 Sep. 1923) for the suppression of the circulation of and traffic in obscene publications, as amended (Art. 15)	Multilateral	I:710 Vol. 46
12 Nov.[2]	Lake Success	Convention (concluded at Geneva on 11 Oct. 1933) for the suppression of traffic in women of full age, as amended (Art. 4)	Multilateral	I:772 Vol. 53
1948				
24 Jan.	Paris	Agreement concerning monetary and financial relations (Art. 23)	France/Lebanon	I:2263 Vol. 173
2 Feb.	Rome	Treaty of friendship, commerce and navigation (Art. XXVI)	United States/Italy	I:1040 Vol. 79

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[1] All entries recorded throughout this Section in respect of China refer to actions taken by the authorities representing China in the United Nations at the time of those actions, and are to be understood in the light of General Assembly resolution 2758 (XXVI) of 25 October 1971.

[2] The date and place given here are those of the signature of the amending protocol.

1948 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
30 Apr.	Bogotá	American treaty on pacific settlement	Multilateral	I:449 Vol. 30
21 May	New Delhi	Agreement relating to air services (Art. XI)	India/Sweden	I:543 Vol. 34
23 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/India	I:423 Vol. 28
28 June	Rome	Economic co-operation agreement (Art. X)	United States/Italy	I:314 Vol. 20
28 June	Paris	Economic co-operation agreement (Art. X)	United States/ France	I:302 Vol. 19
29 June	Copenhagen	Economic co-operation agreement (Art. X)	United States/ Denmark	I:338 Vol. 22
2 July	Vienna	Economic co-operation agreement (Art. IX)	United States/ Austria	I:323 Vol. 21
2 July	The Hague	Economic co-operation agreement (Art. X)	United States/ Netherlands	I:315 Vol. 20
2 July	Athens	Economic co-operation agreement (Art. X)	United States/ Greece	I:342 Vol. 23
2 July	Brussels	Economic co-operation agreement (Art. X)	United States/ Belgium	I:309 Vol. 19
3 July	Oslo	Economic co-operation agreement (Art. X)	United States/ Norway	I:317 Vol. 20
3 July	Reykjavik	Economic co-operation agreement (Art. X)	United States/ Iceland	I:316 Vol. 20
3 July	Nanking	Economic co-operation agreement (Art. XI)	United States/ China[1]	I:273 Vols. 17 and 45
3 July	Luxembourg	Economic co-operation agreement (Art. X)	United States/ Luxembourg	I:350 Vol. 24
3 July	Stockholm	Economic co-operation agreement (Art. IX)	United States/ Sweden	I:343 Vol. 23
4 July	Ankara	Economic co-operation agreement (Art. IX)	United States/ Turkey	I:351 Vol. 24
6 July	London	Economic co-operation agreement (Art. X)	United States/ United Kingdom	I:339 Vol. 22
28 Sep.	Lisbon	Economic co-operation agreement, as amended (Art. X)	United States/ Portugal	I:442 Vol. 29
6 Oct.	Beirut	Treaty concerning consular arrangements, navigation, civil and commercial rights and establishment (Art. 33)	Greece/Lebanon	I:1179 Vol. 87
15/29 Nov.	Washington	*cf.* 1961, 23 Nov.		
9 Dec.	Paris (opened for signature)	Convention on the prevention and punishment of the crime of genocide (Art. IX)	Multilateral	I:1021 Vol. 78

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[1] See footnote 1, p. 126.

1949	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Jan.	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Ceylon	I:428 Vol. 28
28 Apr.	Lake Success (opened for accession)	Revised general act for the pacific settlement of international disputes	Multilateral	I:912 Vol. 71
14 June	Washington	Treaty of friendship (Art. II)	Thailand/ Philippines	I:1062 Vol. 81
4 July	Berne	Convention concerning the construction and use of the Bâle-Mulhouse airport at Blotzheim (Art. 20)	France/Switzerland	I:22048 Vol. 1323
15 July	Lake Success (opened for signature)	Agreement for facilitating the international circulation of visual and auditory materials of an educational, scientific and cultural character (Art. IX)	Multilateral	I:2631 Vol. 197
30 Aug.	Ottawa	Agreement relating to air services (Art. 9)	Canada/Belgium	I:782 Vol. 53
10 Sep.	Guatemala City	Treaty of peace, friendship and co-operation (Art. 7)	Guatemala/Italy	I:1410 Vol. 102
19 Sep.	Geneva	Convention on road traffic (Art. 33)	Multilateral	I:1671 Vol. 125
20 Sep.	Beirut	Air transport agreement (Art. IX)	Netherlands/ Lebanon	I:1474 Vol. 108
20 Oct.	New Delhi	Agreement relating to air services (Art. XI)	India/Philippines	I:934 Vol. 72
31 Oct.	Tehran	Agreement relating to air services (Art. 12)	Netherlands/Iran	I:3596 Vol. 254
1950				
12 Jan.	Canberra	Agreement relating to air services (Art. XII)	Australia/Ceylon	I:789 Vol. 53
21 Jan.	Dublin	Treaty of friendship, commerce and navigation (Art. XXIII)	United States/ Ireland	I:2792 Vol. 206
27 Jan.	Mexico City	Commercial agreement (Art. VII)	Netherlands/ Mexico	I:1661 Vol. 123
18 Feb.	Tehran	Treaty of friendship (Art. IV)	Iran/Pakistan	I:2119 Vol. 161
21 Mar.	Lake Success (opened for signature)	Convention for suppression of traffic in persons and of exploitation of prostitution of others (Art. 22)	Multilateral	I:342 Vol. 96
24 Mar.	Rome	Treaty of friendship, conciliation and judicial settlement (Arts. 18-24)	Turkey/Italy	I:1338 Vol. 96
6 Aug.	Cairo	Agreement relating to air transport services (Art. XVI)	Egypt/France	I:1710 Vol. 127
16 Aug.	Wellington	Agreement relating to air services (Art. X)	New Zealand/ Canada	I:1002 Vol. 77

1950 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
28 Aug.	Manila	Treaty of friendship, consular services and establishment (Art. II)	Greece/Philippines	I:3097 Vol. 225
16 Sep.	Brussels	Commercial agreement (Art. 7)	Belgo-Luxembourg Economic Union/ Mexico	I:2523 Vol. 188
15 Dec.	London	Trade agreement (Art. 8)	United Kingdom/ Norway	I:1459 Vol. 106
1951				
2 Feb.	Paris	Treaty of cession of the territory of the Free Town of Chandernagore (Art. XI)	India/France	I:2744 Vol. 203
22 Feb.	Oslo	Consular convention (Art. 34)	United Kingdom/ Norway	I:4713 Vol. 326
8 May	London	Agreement for air services (Art. 10)	Belgium/ United Kingdom	I:2079 Vol. 158
24 May	New Delhi	Agreement relating to air services (Art. XI)	India/Netherlands	I:1471 Vol. 108
18 June	Tehran	Agreement relating to air services (Art. 12)	Denmark/Iran	I:3602 Vol. 255
28 July	Geneva (opened for signature)	Convention relating to the status of refugees (Art. 38)	Multilateral	I:2545 Vol. 189
3 Aug.	Athens	Treaty of friendship, commerce and navigation (Art. XXVI)	Greece/ United States	I:3080 Vol. 224
23 Aug.	Washington	Treaty of friendship, commerce and navigation (Art. XXIV)	Israel/ United States	I:2979 Vol. 219
7 Sep.	Addis Ababa	Treaty of amity and economic relations (Art. XVII)	United States/ Ethiopia	I:2785 Vol. 206
8 Sep.	San Francisco	Treaty of peace with Japan (Art. 22)	Multilateral	I:1832 Vol. 136
25 Sep.	Canberra	Agreement relating to air services (Art. VIII)	Netherlands/ Australia	I:1713 Vol. 128
1 Oct.	Copenhagen	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Denmark	I:6056 Vol. 421
31 Dec.	Paris	Consular convention (Art. 49)	France/ United Kingdom	I:4744 Vol. 330
1952				
14 Mar.	Stockholm	Consular convention (Art. 34)	Sweden/ United Kingdom	I:2731 Vol. 202
9 May	Tel Aviv	Agreement for economic assistance (Art. VIII)	United States/Israel	I:226 Vol. 177
14 June	Cairo	Agreement relating to air services (Art. XIV)	Australia/Egypt	I:2269 Vol. 173
11 July	Manila	Treaty of friendship (Art. II)	India/Philippines	I:2741 Vol. 203

1952 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
17 July	Karachi	Agreement relating to air services (Art. XI)	Pakistan/ Netherlands	I: 1980 Vol. 150
29 Aug.	Cairo	Agreement relating to air services (Art. XI)	Ethiopia/Pakistan	I: 1979 Vol. 150
6 Sep.	Geneva	Universal copyright convention (Art. XV)	Multilateral	I: 2937 Vol. 216
1953				
9 Jan.		Treaty of permanent friendship (Art. VI)	Costa Rica/Spain	
31 Mar.	New York (opened for signature)	Convention on the political rights of women (Art. IX)	Multilateral	I: 2613 Vol. 193
31 Mar.	New York (opened for signature)	Convention on the international right of correction (Art. V)	Multilateral	I: 6280 Vol. 435
2 Apr.	Tokyo	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/Japan	I: 2788 Vol. 206
17 Apr.	Athens	Consular convention (Art. 35)	Greece/ United Kingdom	I: 2582 Vol. 191
27 Apr.	Bangkok	Agreement relating to air services (Art. 10)	Thailand/ Philippines	I: 2274 Vol. 174
23 June	New York (opened for signature)	Protocol for limiting and regulating cultivation of poppy plant, production of, international and wholesale trade in, and use of opium (Art. 15)	Multilateral	I: 6555 Vol. 456
1 July	Paris (opened for signature)	Convention for the establishment of a European Organization for Nuclear Research (Art. XI)	Multilateral	I: 2701 Vol. 200
14 Sep.	Colombo	Agreement for air services (Art. 11)	Netherlands/Ceylon	I: 2608 Vol. 193
24 Sep.	Helsinki	Agreement concerning a supplement to the convention of 30 January 1926 for the pacific settlement of disputes	Finland/Denmark	I: 2532 Vol. 188
26 Sep.	Madrid	Economic aids agreement (Art. IX)	Spain/United States	I: 2802 Vol. 207
19 Oct.	Venice	Constitution of the Intergovernmental Committee for European Migration (Art. 30)	Multilateral	I: 2807 Vol. 207
7 Dec.[1]	New York	Slavery convention signed at Geneva on 25 Sep. 1926, as amended (Art. 8)	Multilateral	I: 2861 Vol. 212
24 Dec.	Beirut	Agreement for air services (Art. 10)	Belgium/Lebanon	I: 2972 Vol. 219

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[1] The date and the place given here are those at which the amending protocol was opened for signature.

1954	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
16 Feb.	Paris	Convention on conditions of residence and navigation (Art. 13)	Sweden/France	I:3147 Vol. 228
3 Mar.	Bangkok	Treaty of friendship (Art. VI)	Thailand/Indonesia	I:2893 Vol. 213
20 Mar.	Mexico City	Consular convention (Art. 36)	United Kingdom/ Mexico	I:4750 Vol. 331
17 Apr.	Beirut	Agreement relating to air services (Art. XIII)	Yugoslavia/ Lebanon	I:8713 Vol. 602
12 May	London (opened for signature)	International convention for the prevention of pollution of the sea by oil (Art. XIII)	Multilateral	I:4714 Vol. 327
1 June	Rome	Consular convention (Art. 37)	United Kingdom/ Italy	I:5798 Vol. 403
28 Sep.	New York	Convention relating to the status of stateless persons (Art. 34)	Multilateral	I:5158 Vol. 360
13 Oct.	Paris (opened for signature)	International convention on the standardization of methods of analysing and appreciating wines (Art. 6)	Multilateral	I:10416 Vol. 724
23 Oct.[1]	Paris	Treaty for collaboration in economic, social and cultural matters and for collective self-defence, signed at Brussels on 17 March 1948, as amended (Art. X)	Belgium, France, Luxembourg, Netherlands, United Kingdom, Fed. Rep. of Germany, Italy	I:304 Vols. 19 and 211
29 Oct.	Washington	Treaty of friendship, commerce and navigation (Art. XXVII)	United States/ Fed. Rep. of Germany	I:3943 Vol. 273
5 Nov.	Rangoon	Treaty of peace (Art. IX)	Burma/Japan	I:3542 Vol. 251
24 Nov.	Rio de Janeiro	Agreement concerning conciliation and judicial settlement (Arts. 16-22)	Italy/Brazil	I:4146 Vol. 284
1 Dec.[2]	Paris	Agreement concerning the International Institute of Refrigeration, replacing the convention of 21 June 1920 (Art. XXXIII)	Multilateral	I:11837 Vol. 826
14 Dec.	Quito	Air transport agreement (Art. VIII)	Netherlands/ Ecuador	I:3233 Vol. 232
1955				
31 Jan.	Manila	Agreement for air services (Art. 11)	Philippines/ United Kingdom	I:2932 Vol. 216
5 Mar.	Paris	Consular convention (Art. 44)	Sweden/France	I:6150 Vol. 427

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[1] The date and the place given here are those of the signature of the protocol modifying and completing the Treaty, by which Article VIII of the Treaty became Article X.

[2] The date and place given here are those of the signature of the revised Convention.

1955 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
10 Aug.	Tripoli	Treaty of friendship and good neighbourliness (Art. 8)	France/Libya	
15 Aug.	Tehran	Treaty of amity, economic relations and consular rights (Art. XXI)	United States/Iran	I:4132 Vol. 284
17 Sep.	Lugano	Convention concerning the regulation of Lake Lugano (Art. XI)	Italy/Switzerland	I:4257 Vol. 291
20 Oct.	Berne	Additional protocol to the convention concerning the constitution of "Eurofima" (Art. 14)	Multilateral	I:5425 Vol. 378
21 Oct.	Beirut	Air transport agreement (Art. 11)	Denmark/Lebanon	I:3482 Vol. 248
13 Dec.	Paris	European convention on establishment (Art. 31)	Multilateral	I:7660 Vol. 529
1956				
27 Mar.	The Hague	Treaty of friendship, commerce and navigation (Art. XXV)	Netherlands/ United States	I:4154 Vol. 285
30 Apr.	Paris	Agreement on commercial rights of non-scheduled air services in Europe (Art. 4)	Multilateral	I:4494 Vol. 310
19 May	Geneva (opened for signature)	Convention on the contract for the international carriage of goods by road (Art. 47)	Multilateral	I:5742 Vol. 399
20 June	New York (opened for signature)	Convention on the recovery abroad of maintenance (Art. 16)	Multilateral	I:3850 Vol. 268
30 July	Bonn	Consular convention (Art. 41)	United Kingdom/ Fed. Rep. of Germany	I:4748 Vol. 330
30 Aug.	Manila	Treaty of friendship (Art. 2)	Philippines/ Switzerland	I:4284 Vol. 293
7 Sep.	Geneva	Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery (Art. 10)	Multilateral	I:3822 Vol. 266
28 Nov.	Seoul	Treaty of friendship, commerce and navigation (Art. XXIV)	United States/ Rep. of Korea	I:4367 Vol. 302
11 Dec.	Athens	Convention on judicial settlement	Greece/Sweden	I:4316 Vol. 299
1957				
20 Feb.	New York (opened for signature)	Convention on the nationality of married women (Art. 10)	Multilateral	I:4468 Vol. 309
28 Feb.	Tokyo	Treaty of commerce and navigation (Art. XVIII, para. 2)	Norway/Japan	I:4054 Vol. 280

1957 (cont.)	Place	Title and Clause	Contracting Parties	Treaty Series
24 Apr.	Cairo	Declaration on the Suez Canal and the arrangements for its operation (para. 9)	Egypt[1]	I:3821 Vol. 265
29 Apr.	Strasbourg (opened for signature)	European convention of the peaceful settlement of disputes	Multilateral	I:4646 Vol. 230
23 June	Kabul	Agreement relating to air services (Art. XI)	Pakistan/ Afghanistan	I:4717 Vol. 327
23 Nov.	The Hague	Agreement relating to refugee seamen (Art. 14)	Multilateral	I:7384 Vol. 506
1958				
20 Jan.	Djakarta	Treaty of peace (Art. 6)	Japan/Indonesia	I:4688 Vol. 324
3 Feb.	The Hague	Treaty instituting the Benelux Economic Union (Art. 50)	Belgium, Luxembourg, Netherlands	I:5471 Vol. 381
5 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Norway/Pakistan	I:4769 Vol. 334
6 Mar.	Stockholm	Agreement relating to air services (Art. XI)	Sweden/Pakistan	I:5656 Vol. 393
10 Apr.	Copenhagen	Agreement relating to air services (Art. XI)	Denmark/Pakistan	I:4353 Vol. 302
14 Apr.	Tehran	Agreement concerning air transport (Art. 13)	Belgium/Iran	I:5473 Vol. 381
29 Apr.	Geneva (opened for signature)	Optional protocol of signature concerning the compulsory settlement of disputes[2]	Multilateral	I:6466 Vol. 450
7 June	Karachi	Agreement relating to air services (Art. XI)	Pakistan/Portugal	I:4645 Vol. 320
4 July	Karachi	Agreement relating to air services (Art. XI)	Belgium/Pakistan	I:5569 Vol. 387
21 July	Vienna	Agreement relating to air services (Art. XI)	Austria/Afghanistan	I:9236 Vol. 645
28 Nov.	Monrovia	Agreement for the establishment and operation of air services (Art. 9)	Liberia/Netherlands	I:5651 Vol. 393
1959				
30 Jan.	Tegucigalpa	Agreement on commerce (Art. XII)	Belgium, Luxembourg, Netherlands/ Honduras	I:9234 Vol. 645
16 July	Rome	Agreement relating to air services (Art. XI)	India/Italy	I:6714 Vol. 464
12 Nov.	Washington	Treaty of friendship and commerce (Art. XXIII)	United States/ Pakistan	I:5816 Vol. 404

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[1] See Sec. II, p. 93, above.

[2] This Protocol relates to disputes concerning the Geneva Conventions on the Law of the Sea of 29 April 1958.

1959 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
19 Nov.	Rome	Convention placing the International Poplar Commission within the framework of FAO (Art. XV)	Multilateral	I:5902 Vol. 410
25 Nov.	Paris	Convention of establishment (Art. XVI)	United States/ France	I:5764 Vol. 401
25 Nov.	Bonn	Treaty for the promotion and protection of investments (Art. 11)	Pakistan/ Fed. Rep. of Germany	I:6575 Vol. 457
1 Dec.	Washington	Antarctic treaty (Art. XI)	Multilateral	I:5778 Vol. 402
9 Dec.	Monrovia	Agreement relating to air services (Art. VIII)	Sweden/Liberia	I:6716 Vol. 464
1960				
13 Feb.[1]	Beirut	Agreement for air transport of 24 Jan. 1949, as amended (Art. 9)	Italy/Lebanon	I:3223 Vol. 497
9 Mar.	Conakry	Air transport agreement (Art. 9)	Netherlands/Guinea	I:5646 Vol. 392
15 Mar.	Geneva	Convention relating to the unification of certain rules concerning collisions in inland navigation (Art. 14)	Multilateral	I:8310 Vol. 572
24 Mar.	Berne	Agreement concerning air services (Art. 9)	Belgium/ Switzerland	I:5996 Vol. 416
8 Apr.	The Hague	Treaty concerning arrangements for co-operation in the Ems estuary (Art. 46)	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 509
8 Apr.	The Hague	Agreement to accept the compulsory jurisdiction of the International Court of Justice in disputes concerning the interpretation or application of the revised convention on Rhine navigation, 1868	Netherlands/ Fed. Rep. of Germany	I:7404 Vol. 509
24 June	Vienna	Consular convention (Art. 45)	United Kingdom/ Austria	I:7327 Vol. 502
19 Oct.	Amman	Agreement relating to air services (Art. 9)	Belgium/Jordan	I:6959 Vol. 479
14 Dec.	Paris	Convention against discrimination in education (Art. 8)	Multilateral	I:6193 Vol. 429
14 Dec.[2]	New Delhi	Agreement of 11 July 1949 relating to air services, as amended (Art. X)	India/Australia	I:552 Vols. 35 and 425
18 Dec.	Tokyo	Treaty of friendship and commerce (Art. XIII)	Pakistan/Japan	I:6093 Vol. 423

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[1] The date given here is the date of signature of the amending protocol.

[2] The date given here is that of the exchange of notes which modified the Agreement and by which Article XI became Article X.

1961	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
21 Feb.	Brussels	Treaty of friendship, establishment and navigation (Art. 19)	Belgium/United States	I:6967 Vol. 480
8 Mar.	Brussels	Consular convention (Art. 43)	Belgium/United Kingdom	I:7554 Vol. 523
11 Mar.	Reykjavik	Exchange of notes constituting an agreement settling the fisheries dispute (para. 4)	Iceland/United Kingdom	I:5710 Vol. 397
30 Mar.	New York	Single convention on narcotic drugs (Art. 48)	Multilateral	I:7515 Vol. 520
3 Apr.	Saigon	Treaty of amity and economic relations (Art. XIV)	United States/Republic of Viet Nam	I:6106 Vol. 424
18 Apr.	Vienna	Optional protocol to the Vienna convention on diplomatic relations concerning the compulsory settlement of disputes	Multilateral	I:7312 Vol. 500
30 May	Madrid	Consular convention (Art. 53)	United Kingdom/Spain	I:8198 Vol. 562
17 June	Conakry	Air transport agreement (Art. 9)	Sweden/Guinea	I:6729 Vol. 465
19 July	Reykjavik	Exchange of notes constituting an agreement concerning the fishery zone round Iceland (para. 5)	Iceland/Fed. Rep. of Germany	I:5877 Vol. 409
27 July	Beirut	Agreement for the establishment and operation of air services (Art. XII)	Lebanon/Liberia	I:11304 Vol. 794
24 Aug.	Amman	Agreement relating to air services (Art. 9)	Netherlands/Jordan	I:6733 Vol. 466
30 Aug.	New York	Convention on the reduction of statelessness (Art. 14)	Multilateral	I:14458 Vol. 989
31 Aug.	Monrovia	Agreement relating to air services (Art. XII)	Switzerland/Liberia	I:8160 Vol. 559
26 Oct.	Rome	International convention for the protection of performers, producers of phonograms and broadcasting organizations (Art. 30)	Multilateral	I:7247 Vol. 496
23 Nov.[1]	Rome	Constitution of the International Rice Commission, adopted at Washington 15/29 Nov. 1948, as amended (Art. XI)	Multilateral	I:1613 Vol. 418
23 Nov.[1]	Rome	Agreement for the establishment of Indo-Pacific Fisheries Council, adopted at Washington 15/29 Nov. 1948, as amended (Art. III)	Multilateral	I:1615 Vol. 418

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the instrument.

1962	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Feb.	Luxembourg	Treaty of friendship, establishment and navigation (Art. XVII)	United States/ Luxembourg	I:6868 Vol. 474
19 Mar.	Evian	*cf.* 1962, 3 July		
21 June	Paris	Air transport agreement (Art. 9)	Norway/Guinea	I:6738 Vol. 466
27 June	Copenhagen	Consular convention (Art. 36)	United Kingdom/ Denmark	I:8197 Vol. 562
29 June	Bonn	Agreement relating to air services (Art. VIII)	Norway/Liberia	I:6739 Vol. 466
3 July[1]	Paris and Rocher-Noir	Exchange of letters and declarations adopted on 19 March 1962 at the close of the Evian talks, constituting an agreement (declaration of principles relating to the settlement of disputes)	France/Algeria	I:7395 Vol. 507
14 Nov.	London	Treaty of commerce, establishment and navigation (Art. 31)	United Kingdom/ Japan	I:6934 Vol. 478
10 Dec.	New York (opened for signature)	Convention on consent to marriage, minimum age for marriage and registration of marriages (Art. 8)	Multilateral	I:7525 Vol. 521
1963				
8 Jan.	Seoul	Consular convention (Art. 16)	United States/ Republic of Korea	I:7211 Vol. 493
24 Apr.	Vienna	Optional protocol to the Vienna convention on consular relatons concerning the compulsory settlement of disputes	Multilateral	I:8640 Vol. 596
13 Aug.	Asunción	Agreement on trade and navigation (Art. XVI)	Belgium, Luxembourg, Netherlands/ Paraguay	I:8572 Vol. 592
14 Sep.	Tokyo	Convention on offences and certain other acts committed on board aircraft (Art. 24)	Multilateral	I:10106 Vol. 704
26 Oct.	Niamey	Act regarding navigation and economic co-operation between the States of the Niger Basin (Art. 7)	Multilateral	I:8506 Vol. 587
31 Oct.	Paris (opened for signature)	Protocol on privileges and immunities of the European Space Research Organization (Art. 29)	Multilateral	I:11473 Vol. 805

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[1] The date and the places given here are those of the exchange of letters.

1963 *(cont.)*	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
3 Dec.[1]	Rome	Agreement for the establishment of a General Fisheries Council for the Mediterranean, drawn up at Rome on 24 Sep. 1949, as amended (Art. XIII)	Multilateral	I:1691 Vol. 490
3 Dec.	Rome	Agreement for the establishment of a Commission for Controlling the Desert Locust in the Eastern Region of Its Distribution Area in South-West Asia (Art. XVII)	Multilateral	I:7663 Vol. 529
1964				
4 Feb.	Karachi	Agreement relating to scheduled air services (Art. XII, para. B, ii)	Pakistan/Lebanon	I:8863 Vol. 614
4 May	Tokyo	Consular convention (Art. 39)	United Kingdom/ Japan	I:8179 Vol. 561
19 Sep.	Beirut	Agreement relating to air services (Art. XI)	India/Lebanon	I:11820 Vol. 825
1965				
25 Jan.	Geneva	Convention on the registration of inland navigation vessels (Art. 20)	Multilateral	I:21114 Vol. 1281
18 Mar.	Washington (opened for signature)	Convention on the settlement of investment disputes between States and nationals of other States (Art. 64)	Multilateral	I:8359 Vol. 575
21 Apr.	Belgrade	Consular convention (Art. 45)	United Kingdom/ Yugoslavia	I:8620 Vol. 595
2 July	Rome	Agreement for establishment of a commission for controlling the desert locust in the Near East (Art. XVI)	Multilateral	I:8575 Vol. 592
7 July	London	Treaty for conciliation, judicial settlement and arbitration (Art. 14)	United Kingdom/ Switzerland	I:8765 Vol. 605
1966				
8 Feb.	Lomé	Treaty of amity and economic relations (Art. XIV)	United States/ Togo	I:9677 Vol. 680
15 Feb.	Geneva	Convention on the measurement of inland navigation vessels (Art. 14)	Multilateral	I:13899 Vol. 964
7 Mar.	New York (opened for signature)	International convention on the elimination of all forms of racial discrimination (Art. 22)	Multilateral	I:9464 Vol. 660

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[1] The date and the place given here are those on which the Conference of the Food and Agriculture Organization of the United Nations approved the amendments to the Agreement.

1967	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
31 Jan.	New York	Protocol relating to the status of refugees (Art. IV)	Multilateral	I:8791 Vol. 606
14 Feb.	Mexico City	Treaty for the prohibition of nuclear weapons in Latin America (Art. 24)	Multilateral	I:9068 Vol. 634
14 Mar.	Manila	Trade agreement (Art. IX)	Belgium, Luxembourg, Netherlands/ Philippines	I:12382 Vol. 863
24 May	Kabul	Agreement relating to air services (Art. IX)	Denmark/ Afghanistan	I:9951 Vol. 695
1 June	London	Convention on conduct of fishing operations in the North Atlantic (Art. 13)	Multilateral	I:15849 Vol. 1051
10 July	Paris	International agreement on the procedure for the establishment of tariffs for scheduled air services (Art. 4)	Multilateral	I:9971 Vol. 696
14 July[1]	Stockholm	Convention for the protection of industrial property signed at Paris on 20 March 1883, as revised (Art. 28)	Multilateral	I:11851 Vol. 828
1968				
23 Feb.	Brussels	Protocol amending the international convention for the unification of certain rules of law relating to bills of lading, signed at Brussels on 25 August 1925 (Art. 8)	Multilateral	I:23643 Vol. 1412
8 Nov.	Vienna	Convention on road traffic (Art. 52)	Multilateral	I:15705 Vol. 1042
8 Nov.	Vienna	Convention on road signs and signals (Art. 44)	Multilateral	I:16743 Vol. 1091
1969				
13 Feb.	Geneva	Agreement establishing the European Molecular Biology Conference (Art. VIII)	Multilateral	I:10462 Vol. 727
23 May	Vienna	Convention on the law of treaties (Art. 66)	Multilateral	I:18232 Vol. 1155
25 July	Boston	International health regulations (Art. 106)	Multilateral	I:10921 Vol. 764
2 Sep.	Washington	Consular convention (Art. 46)	Belgium/ United States	I:13178 Vol. 924
8 Sep.	Mexico City	Convention on the privileges and immunities of the Agency for the Prohibition of Nuclear Weapons in Latin America (Art. 7)	Multilateral	I:16545
30 Dec.	Belgrade	Consular convention (Art. 46)	Belgium/ Yugoslavia	I:13441 Vol. 943

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[1] The date and the place given here are those of the signature of the revised Convention.

1970	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
23 Apr.	Brussels	International convention on travel contracts (Art. 32, para. 2)	Multilateral	I:21051 Vol. 1275
19 June	Washington	Treaty on patent co-operation (Art. 59)	Multilateral	I:18336 Vol. 1160
1 Dec.	Rome	Agreement for the establishment of a commission for controlling the desert locust in North-West Africa (Art. XVI)	Multilateral	I:11354 Vol. 797
16 Dec.	The Hague	Convention on the suppression of the unlawful seizure of aircraft (Art. 12, para. 1)	Multilateral	I:12325 Vol. 860
1971				
21 Feb.	Vienna	Convention on psychotropic substances (Art. 31)	Multilateral	I:14956 Vol. 1019
14 July	Brussels	Treaty of commerce (Art. 11)	Belgium, Luxembourg, Netherlands/ USSR	I:12656 Vol. 883
17 July	Accra	Agreement for the provision of a special loan to the Government of the Republic of Ghana to facilitate the payment of medium term commercial debts (Art. VII)	United Kingdom/ Ghana	I:11467 Vol. 805
24 July[1]	Paris	Convention for the protection of literary and artistic works signed at Berne on 9 September 1886, as revised (Art. 33)	Multilateral	I:25986
24 July	Paris	Universal copyright convention, signed at Geneva on 6 September 1952, as revised (Art. XV)	Multilateral	I:13444 Vol. 943
23 Sep.	Montreal	Convention for the suppression of unlawful acts against the safety of civil aviation (Art. 14)	Multilateral	I:14118 Vol. 974
6 Oct.	Paris	Convention on the establishment of the International Institute for the Management of Technology (Art. 7)	Multilateral	I:14566 Vol. 995
1972				
28 Apr.	Ankara	Consular convention (Art. 58)	Belgium/Turkey	I:15142 Vol. 1029
16 May	Basle	European convention on State immunity (Art. 34)	Multilateral	I:25699

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[1] The date and the place given here are those of the signature of the revised Convention.

1973	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
10 May	Geneva	Agreement establishing the European Molecular Biology Laboratory (Art. XII)	Multilateral	I:13668 Vol. 954
12 June	The Hague	Protocol relating to refugee seamen (Art. II)	Multilateral	I:13928 Vol. 965
22 June	Rome	Agreement for the establishment of a Regional Animal Production and Health Commission for Asia, the Far East and the South-West Pacific (Art. XX)	Multilateral	I:14604 Vol. 997
5 Oct.	Munich	Convention on the grant of European patents (Art. 173)	Multilateral	I:16208 Vol. 1065
19 Nov.	Montevideo	Treaty of the La Plata River and its maritime limits (Art. 87)	Uruguay/Argentina	I:21424 Vol. 1295
30 Nov.	New York	International convention on the suppression and punishment of the crime of *apartheid* (Art. XII)	Multilateral	I:14861 Vol. 1015
14 Dec.	New York	Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents (Art. 13)	Multilateral	I:15410 Vol. 1035
1974				
19 Feb.	Madrid	Agreement on the delimitation of the continental shelf (Art. 3, para. 2)	Italy/Spain	I:17429 Vol. 1120
22 Mar.	Helsinki	Convention on the protection of the marine environment of the Baltic Sea area (Art. 18, para. 2)	Multilateral	I:18338 Vol. 1161
16 May	Khartoum	Agreement relating to the joint exploitation of the natural resources of the sea-bed and subsoil of the Red Sea in the common zone (Art. XVI)	Sudan/ Saudi Arabia	I:13605 Vol. 952
1975				
26 Feb.	Salto	Treaty concerning the status of the river Uruguay (Art. 60)	Uruguay/ Argentina	I:21425 Vol. 1295
8 Aug.	New York	Single convention on narcotic drugs, 1961, as amended (Art. 48)	Multilateral	I:14152 Vol. 1976
1977				
24 May	Athens	Agreement on the delimitation of the respective continental shelves of the two States (Art. IV)	Greece/Italy	I:21048 Vol. 1275

1978	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
5 July	Geneva	Protocol to the convention on the contract for the international carriage of goods by road (CMR) (Art. 8)	Multilateral	I: 19487 Vol. 1208
1979				
30 Mar.	Geneva	International agreement on olive oil (Art. 14, para. 2)	Multilateral	I: 19674 Vol. 1219
10 May	Manila	Treaty of amity, commerce and navigation (Art. XV, para. 2)	Japan/Philippines	I: 20979 Vol. 1272
8 Apr.	Vienna	Constitution of the United Nations Industrial Development Organization (UNIDO) (Art. 22, para. 1 *(b)*)	Multilateral	I: 23432 Vol. 1401
17 Dec.	New York	International convention against the taking of hostages (Art. 16, para. 1)	Multilateral	I: 21931 Vol. 1316
18 Dec.	New York	Convention on the elimination of all forms of discrimination against women (Art. 29)	Multilateral	I: 20378 Vol. 1249
1980				
20 May	Canberra	Convention on the conservation of Antarctic marine living resources	Multilateral	I: 22301 Vol. 1329
30 Oct.	Lima	General peace treaty (Arts. 31-36 and 39)	El Salvador/ Honduras	I: 21856 Vol. 1310
1981				
23 Jan.	Cotonou	Agreement concerning technical co-operation (Art. XI)	Switzerland/Benin	I: 19804 Vol. 1226
1984				
10 Dec.	New York	Convention against torture and other cruel, inhuman or degrading treatment or punishment (Art. 30, para. 1)	Multilateral	I: 24841
1985				
22 Mar.	Vienna	Vienna convention for the protection of the ozone layer (Art. 11)	Multilateral	I: 26164
10 Dec.	New York	International convention against *apartheid* in sports (Art. 19)	Multilateral	I: 25822
1986				
21 Mar.	Vienna	Vienna convention on the law of treaties between States and international organizations or between international organizations (Art. 66, para. 2)	Multilateral	
1988				
10 Mar.	Rome	Convention for the suppression of unlawful acts against the safety of maritime navigation (Art. 18, para. 1)	Multilateral	I: 29004

1988 (*cont.*)	*Place*	*Title and Clause*	*Contracting Parties*	*Treaty Series*
20 Dec.	Vienna	United Nations convention against illicit traffic in narcotic drugs and psychotropic substances (Art. 32)	Multilateral	1:27627
1989				
4 Dec.	New York	International convention against the recruitment, use, financing and training of mercenaries (Art. 17, para. 1)	Multilateral	
1991				
25 Feb.	Espoo	Convention on environmental impact assessment in a transboundary context (Art. 15, para. 2)	Multilateral	
1 Mar.	Montreal	Convention on the marking of plastic explosives for the purpose of detection (Art. XI, para. 1)	Multilateral	
1992				
17 March	Helsinki	Convention on the protection and use of transboundary watercourses and international lakes (Art. 22, para. 1)	Multilateral	
9 May	New York	United Nations framework convention on climate change	Multilateral	
5 June	Rio de Janeiro	Convention on biological diversity (Art. 27, para. 3)	Multilateral	
1993				
13 Jan.	Paris	Convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction (Art. XIV, para. 2)	Multilateral	
1994				
14 June	Oslo	Protocol to the 1979 Convention on long-range transboundary air pollution on further reduction of sulphur emissions (Art. 9)	Multilateral	

CHAPTER V

FUNCTIONING AND PRACTICE OF THE COURT

In matters concerning its administration and procedure, the International Court of Justice applies Articles 21, 22 and 39-68 of its Statute and Articles 12, 19-31 and 38-109 of its Rules.

I. SEAT

The seat of the Court is established at The Hague (Netherlands); this however, does not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable to do so (Statute, Art. 22, para. 1; Rules, Art. 55).

The Court occupies, in the Peace Palace at The Hague, the premises formerly occupied by the *Permanent Court of International Justice* as well as a new wing built at the expense of the Netherlands Government and inaugurated in 1978. An extension of that new wing as well as a number of newly constructed offices on the third floor of the Peace Palace were inaugurated in 1997.

An agreement of 21 February 1946 between the United Nations and the Carnegie Foundation, which is responsible for the administration of the Peace Palace, determines the conditions under which the Court uses these premises. The agreement was approved by the General Assembly of the United Nations in resolution 84 (I) of 11 December 1946. It provides for the payment to the Carnegie Foundation of an annual contribution (see Chap. VIII, p. 336, below).

II. ADMINISTRATION

1. The Presidency and the Committees of the Court

The President shall preside at all meetings of the Court; he shall direct the work and supervise the administration of the Court (Rules, Art. 12)[1].

Decisions which have to be taken by the Court on administrative matters are prepared by a Budgetary and Administrative Committee composed of the President, the Vice-President and six judges who are elected annually (at present Judges Bedjaoui, Guillaume, Shi, Fleischhauer, Vereshchetin and Kooijmans).

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[1] Occasionally the President is requested by third persons to undertake tasks outside the judicial work of the Court. These activities are described at the end of this chapter (pp. 162-163, below).

In 1967 the Court established a Committee on Relations. Its present members are Vice-President Weeramantry and Judges Herczegh and Parra-Aranguren. This committee is responsible for preparing plans and programmes with a view to the wider dissemination of information on the work of the Court and the maintenance of its relations with other United Nations organs, the specialized agencies, and international bodies and conferences concerned with the codification and progressive development of international law.

In 1970 the Court established a Library Committee (at present Judges Shi, Koroma, Higgins, Kooijmans and Rezek) to review the programme of acquisitions for the library of the Court and supervise the continuous modernization of its services.

In 1979 the Court constituted the Rules Committee as a standing body. Its members are at present Judges Oda, Guillaume, Fleischhauer, Koroma, Higgins and Rezek.

During the period under review the Court established a Committee on Computerization, under the chairmanship of Judge Guillaume and open to all interested Members of the Court.

2. *The Registry*

The Registry is the administrative organ of the Court. Its role is defined by the Statute and the Rules (in particular Rules, Arts. 22-29). The organization of the Registry is prescribed by the Court on proposals submitted by the Registrar, and Instructions for the Registry are drawn up by the Registrar and approved by the Court (Rules, Art. 28, paras. 2 and 3). The instructions drawn up in October 1946 were amended in March 1947 and September 1949 (*I.C.J. Yearbook 1946-1947*, pp. 72-87; *I.C.J. Yearbook 1949-1950*, p. 24). In December 1997 the Court accepted virtually all recommendations of a Sub-Committee on Rationalization which it had created to examine the working methods in the Registry and to make proposals for their rationalization and improvement (cf. the Court's response to General Assembly resolution 52/161, reproduced below, at p. 275).

(a) *The Registrar and the Deputy-Registrar*

The Court appoints its Registrar from among candidates proposed by Members of the Court; he is elected for a term of seven years and may be re-elected (Statute, Art. 21, para. 2; Rules, Art. 22). The Court also appoints a Deputy-Registrar, under the same conditions and in the same way as the Registrar (Rules, Art. 23).

The general functions of the Registrar are defined by the Rules of Court (Art. 26) and the Instructions for the Registry (Art. 1). Under the Instructions: "the Registrar is responsible for all departments of the

Registry. The Staff is under his control and he alone is authorized to direct the work of the Registry, of which he is the Head." He is assisted by the Deputy-Registrar and, in the event of his absence, is replaced by the Deputy-Registrar or, failing him, an official of the Registry appointed by the President (Rules, Art. 27; Instructions for the Registry, Arts. 2 and 42).

The present Registrar is Mr. Eduardo Valencia-Ospina, of Colombian nationality, who was elected on 19 February 1987 and re-elected on 15 February 1994 for a term of 7 years, as from 19 February 1994. He was previously the Court's Deputy-Registrar (1984-1987) and before that had served as the senior legal officer of the Codification Division at the Office of Legal Affairs in the United Nations Secretariat.

On 15 February 1994 the Court elected Mr. Jean-Jacques Arnaldez to the post of Deputy-Registrar for a term of 7 years, as from 19 February 1994. Mr. Arnaldez, who is of French nationality, was previously Legal Counsel in a Paris international law firm (1977-1982) and Counsel in the International Court of Arbitration of the International Chamber of Commerce (ICC) in Paris (1982-1994).

Previous Registrars of the Court were E. Hambro (1946-1953), J. López-Oliván (1953-1960), J. Garnier-Coignet (1960-1966), S. Aquarone (1966-1980) and S. Torres Bernárdez (1980-1986). Previous Deputy-Registrars were J. Garnier-Coignet (1946-1960), S. Aquarone (1960-1966), W. Tait (1966-1976), A. Pillepich (1977-1984), E. Valencia-Ospina (1984-1987), and B. Noble (1987-1994).

(b) *Departments of the Registry*

The officials of the Registry are appointed by the Court on proposals submitted by the Registrar (Statute, Art. 21, para. 2; Rules, Art. 25). General Service category and temporary staff, however, are appointed by the Registrar (Rules, Art. 25; Staff Regulations for the Registry, Art. 5; Instructions for the Registry, Art. 4).

All officials of the Registry, whether permanent or temporary, must be proficient in English and French and those whose work involves linguistic responsibilities must have one of these languages as their first language.

The following table gives a list of officials employed by the Registry (both on a permanent basis and under fixed-term contracts) as at 31 July 1998.

	Date of assumption of duties	*Nationality*
Department of Legal Matters		
Principal Legal Secretary		
Ph. Couvreur	13 April 1982	Belgian
Secretary		
J.-P. Isselé	5 April 1988	French

Legal Officers

F. Ouguergouz	1 February 1995	Algerian
S. Pounjine	1 August 1997	Russian
D. Prager	1 January 1998	Austrian

Department of Linguistic Matters

First Secretary

A. Brouillet	13 June 1988	French

Translators/Interpreters

F. Mengin	5 May 1986	French
Mrs. D. M. Pierfederici	1 January 1994	French

Department of Press and Information Matters

Secretary

A. Th. Witteveen	15 July 1975	Dutch

Information Officer

Mrs. L. Blairon	1 October 1997	Belgian

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Printing Division

P. Vio Head of Division	1 June 1974	Italian
S. H. Herd Deputy Head of Division	1 August 1987	British

Finance Division

M. Mendella Accountant, Head of Division	1 April 1986	Canadian
C. Uriot	1 March 1981	Dutch
T. Komnenović	1 August 1973	Yugoslav

Documents Division/Library of the Court

A. C. G. M. Eyffinger Librarian, Head of Division	1 February 1988	Dutch
Mrs. R. S. B. van Megen Deputy Head of Division	13 August 1973	Dutch
M. Schiethart	1 January 1981	Dutch
G. Vooijs	1 January 1981	Dutch

Archives, Indexing and Distribution Division

S. R. S. Bedi Head of Division	16 September 1985	Indian
Ms M. Doyle Deputy Head of Division	7 July 1998	Irish

Indexing

Mrs. K. Han	3 October 1997	Canadian

Distribution

D. van Rooij	16 April 1975	Dutch
M. Sow	1 August 1985	Senegalese

Shorthand, Typewriting and Reproduction Division

Mrs. C. Blom-Rakoto Head of Division	5 September 1983	French and Malagasy
Miss H. E. Jeffares Deputy Head of Division	1 October 1993	Irish

Shorthand Typists

French-speaking

Mrs. D. Brouillet-Sourisseau	1 January 1990	French
Mrs. M. Steenbergen	9 April 1996	Belgian
Ms F. Delbruyère	14 April 1997	Belgian
Mrs. A. Hooft-Dupont	22 September 1997	Belgian

English-speaking

Mrs. N. Barnes	1 January 1996	British
Mrs. D. Inanli	16 June 1997	British
Mrs. K. Matheson	1 February 1998	British
Mrs. M. Cordner	1 April 1998	British

Reproduction

G. D'Olivo	4 February 1982	Italian and Dutch
E. van Heeswijk	16 August 1993	Dutch

Secretaries of Members of the Court

Ms M. Page Co-ordinator	1 January 1982	French
Mrs. J. E. van Hamel-Newall	1 November 1985	British
Ms M. Sullivan	1 January 1990	British
Ms W. Ch. Deelder	1 July 1982	Dutch
Mrs. J. Devisme	1 January 1986	French
Ms H. H. Muijen	1 June 1987	Dutch
Mrs. A. Rowland-Moore	1 January 1990	British
Mrs. M. Cleary-Cogan	1 January 1990	British
Mrs. D. Bloemendaal	1 April 1990	British
Ms Ch. L. Kamers	8 March 1993	Dutch
Mrs. M.-F. Teven	1 February 1995	French
Mrs. D. Okandeji	8 September 1997	French

Administrative Assistants

Miss M. D. Donnelly	1 January 1985	British
Mrs. H. Boumlak	16 February 1998	Dutch
Mrs. A.-M. Curvers	1 September 1996	Belgian

Computerization Division

B. J. van Veen	1 March 1982	Dutch
H. Laeijendecker	1 January 1994	Dutch
Ms M. Hand	1 November 1997	British

General Assistance Division

I. J. van der Meer Co-ordinator	1 February 1979	Dutch
F. Koch Deputy Co-ordinator	1 September 1985	Dutch
Telephone Operators/Receptionists		
Mrs. J. Koot-Jager	1 March 1978	Dutch
Mrs. E. Keijman	1 April 1978	Dutch
Security Guards		
R. Pijl	1 January 1990	Dutch
Mrs. M. Buan	1 October 1991	Dutch
Messenger		
D. Driessen	1 April 1982	Dutch

(c) *Staff Regulations for the Registry*

Article 28, paragraph 4, of the Rules of Court states:

> "The staff of the Registry shall be subject to Staff Regulations drawn up by the Registrar, so far as possible in conformity with the United Nations Staff Regulations and Staff Rules, and approved by the Court."

On 7 March 1979 the Court adopted new Staff Regulations for the Registry, which are reproduced in Chapter VI of the *I.C.J. Yearbook 1978-1979* (pp. 127-131). In November 1987 these Staff Regulations were amended (see *I.C.J. Yearbook 1988-1989*, pp. 163-164), and again in April 1997 (see below, p. 265).

Before 1979 staff members of the Registry had been subject to Staff Regulations adopted by the President and approved by the Court in March 1947 in accordance with Article 18, paragraph 2, of the 1946 Rules of Court; these Staff Regulations had been amended in February and March 1950 and in June 1951 (see *I.C.J. Yearbook 1946-1947*, pp. 66-71; *I.C.J. Yearbook 1949-1950*, pp. 23-24; *I.C.J. Yearbook 1950-1951*, pp. 25-27).

(d) *Privileges and immunities*

In the Netherlands, in accordance with the terms of an exchange of letters, dated 26 June 1946, between the President of the Court and the Minister for Foreign Affairs of the Netherlands, the Registrar is, in a general way, accorded the same treatment as heads of diplomatic missions accredited to Her Majesty the Queen of the Netherlands, and officials of the Registry are treated as officials of comparable rank attached to diplomatic missions at The Hague (*I.C.J. Acts and Documents No. 5*, pp. 201-207).

By resolution 90 (I) of 11 December 1946 (*ibid.*, pp. 207-211) the General Assembly of the United Nations recommended that, on journeys in connection with the exercise of his functions, the Registrar should enjoy all the privileges, immunities and facilities granted to diplomatic envoys and that the officials of the Registry should, in the same circumstances, enjoy such privileges, immunities and facilities for residence and travel as may be necessary for the independent exercise of their functions.

This resolution also contains a recommendation calling upon Members of the United Nations to recognize and accept the United Nations laissez-passer issued to the Registrar and officials of the Registry by the Court. Such laissez-passer have been issued since 1950. They are similar in form to those issued by the Secretary-General of the United Nations. They are signed by the President of the Court and by the Registrar.

3. Relations with the Public

(a) *Correspondence*

Article 26, paragraph 1 *(a)*, of the Rules of Court states that the Registrar shall "be the regular channel for communications to and from the Court".

Consequently, correspondence should be addressed to *The Registrar, International Court of Justice, Peace Palace, 2517 KJ The Hague, Netherlands* (telegraphic address: INTERCOURT THE HAGUE; Telex: 32323; Telefax (3170) 364 99 28; E-mail addresses: webmaster@icj-cij.org (technical comments), information@icj-cij.org (requests for information and for documents) and mail@icj-cij.org (other requests and comments). It should be written in either English or French[1].

A special issue of postage stamps is used by the Netherlands postal administration for the franking of correspondence from the Court.

The Court's telephone number is (3170) 302 23 23.

(b) *Access to the Court's library and archives*

The library of the Court is separate from the library of the Peace Palace, which is situated in the same building but is administered by the Carnegie Foundation. The relations between the two libraries were the subject of an exchange of notes dated 29 and 30 July 1946 (*I.C.J. Yearbook 1946-1947*, pp. 98-99). The public has access to the Peace Palace Library, but the library of the Court is private.

The Court's library keeps the archives of the Nuremberg *International Military Tribunal*, as entrusted to the Court pursuant to a decision of that Tribunal dated 1 October 1946. These archives, which relate solely to the trial of the major war criminals tried in 1945-1946, may be consulted on written application to the Registrar.

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[1] It is not possible for the Registry to give legal advice or to enter into correspondence with private persons concerning any matter at issue between them and the authorities of their own or another country.

Neither the archives of the Court itself nor those of the *Permanent Court of International Justice* are open to the public (Rules, Art. 26, para. 1 *(n)*).

(c) *Information*

Article 26, paragraph 1 *(k)* and *(m)*, of the Rules of Court provides that the Registrar shall "deal with enquiries concerning the Court and its work" and "ensure that information concerning the Court and its activities is made accessible to governments, the highest national courts of justice, professional and learned societies, legal faculties and schools of law, and public information media". For the purpose of carrying out this function, the Registrar is assisted by one of the Secretaries.

The Registrar arranges as he considers necessary for the publication of information concerning the composition, jurisdiction and work of the Court, and the cases before the Court[1].

In order to increase the availability of Court documents and reduce communication costs, the Court decided to develop a website, which was launched on 25 September 1997 in both English and French. At the time of preparation of this *Yearbook*, it featured the Court's latest Judgments and Orders (which were posted on the day they were delivered), most of the relevant documents in pending cases (Application or Special Agreement, written and oral pleadings, the Court's decisions, press releases), a list of cases before the Court, some basic documents (United Nations Charter and Statute of the Court), general information on the Court's history and proceedings, and the biographies of the judges. An expanding number of documents (e.g. summaries of past decisions, catalogue of publications) will be made available as of autumn 1998. The website can be visited at the following address: http://www.icj-cij.org.

The following documentation, issued separately in English and in French, is available free of charge on application to the Registry:

Press Communiqués;

Background Notes, of which four are available:

- *II* and *II bis. Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976);*
- *IV. Note by the Registry indicating the Rules of Court amended on 10 May 1972;*
- *V. Note by the Registry on the Revised Rules of Court (1978);*
- *VI. Collected unofficial summaries of decisions concerning the law of the sea (1946-1986).*

Also obtainable, from the Registry or United Nations Information Centres, are:

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[1] These publications are distinct from the publications of the Court issued by the Registry: see below, Chap. VII, pp. 301-303.

- a popular handbook in English and French (1996) on *The International Court of Justice*, the former edition (1986) of which was published in Arabic, Chinese, English, French, Russian, Spanish and German (German edition out of stock). It is distributed in the framework of the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law;
- unofficial Arabic, Chinese, Russian and Spanish texts of the Rules of Court.

A film on the Court by the United Nations Department of Public Information is also available on application to that Department or to a United Nations Information Centre.

Groups often ask to visit the Registry and have the way the Court functions explained to them. So far as the work of the Court permits, the Registrar accedes to requests of this kind. During the period under review the Court received a great number of groups including diplomats, scholars and academics, judges and representatives of judicial authorities, lawyers and legal professionals, as well as others, amounting to some 3,000 persons in all.

Information on the assistance given members of the public and representatives of the press to help them follow the proceedings in cases before the Court will be found within the following section (pp. 155, 156, 161).

III. Practice in Regard to Procedure[1]

1. General

(a) *Official languages*

The official languages of the Court are French and English (Statute, Art. 39; Rules, Arts. 51, 70 and 71).

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[1] For decisions taken by the Court involving the application of its Statute and Rules in procedural matters, see *I.C.J. Yearbook 1962-1963*, pp. 91-137; *I.C.J. Yearbook 1963-1964*, pp. 99-109; *I.C.J. Yearbook 1964-1965*, pp. 87-88; *I.C.J. Yearbook 1965-1966*, pp. 91-92; *I.C.J. Yearbook 1966-1967*, p. 87; *I.C.J. Yearbook 1967-1968*, pp. 87-92; *I.C.J. Yearbook 1968-1969*, pp. 108-112; *I.C.J. Yearbook 1969-1970*, pp. 113-115; *I.C.J. Yearbook 1970-1971*, pp. 109-113; *I.C.J. Yearbook 1971-1972*, pp. 123-125; *I.C.J. Yearbook 1972-1973*, pp. 136-143; *I.C.J. Yearbook 1973-1974*, pp. 125-129; *I.C.J. Yearbook 1974-1975*, pp. 120-123; *I.C.J. Yearbook 1975-1976*, pp. 118-123; *I.C.J. Yearbook 1976-1977*, pp. 113-114; *I.C.J. Yearbook 1977-1978*, pp. 111-119; *I.C.J. Yearbook 1978-1979*, pp. 124-131; *I.C.J. Yearbook 1979-1980*, pp. 125-129; *I.C.J. Yearbook 1980-1981*, pp. 133-137; *I.C.J. Yearbook 1981-1982*, pp. 141-147; *I.C.J. Yearbook 1982-1983*, pp. 125-126; *I.C.J. Yearbook 1983-1984*, pp. 140-141; *I.C.J. Yearbook 1984-1985*, pp. 173-184; *I.C.J. Yearbook 1985-1986*, pp. 164-172; *I.C.J. Yearbook 1986-1987*, pp. 158-163; *I.C.J. Yearbook 1987-1988*, pp. 146-151; *I.C.J. Yearbook 1988-1989*, pp. 159-164; *I.C.J. Yearbook 1989-1990*, pp. 157-162; *I.C.J. Yearbook 1990-1991*, pp. 174-182; *I.C.J. Yearbook 1991-1992*, pp. 198-204; *I.C.J. Yearbook 1992-1993*, pp. 242-248; *I.C.J. Yearbook 1993-1994*, pp. 209-216; *I.C.J. Yearbook 1994-1995*, pp. 199-206; *I.C.J. Yearbook 1995-1996*, pp. 224-240; *I.C.J. Yearbook 1996-1997*, pp. 197-202; and pp. 249-272 in Chapter VI, below.

(b) *Official communications*

In all cases submitted to the Court, communications and documents for the Court are delivered to the Registrar and he is the regular channel for communications or notifications from the Court (Rules, Art. 26, para. 1, and Art. 30; Instructions for the Registry, Arts. 3, 11 and 13).

Communications in a case which are intended for a State party thereto are sent to its agent at the Hague address it designates for the purpose (Rules, Art. 40, para. 1).

For communications with other States, the Registrar requests the foreign ministers of States entitled to appear before the Court to indicate the channel through which their governments would wish to receive such communications. The channel of communication indicated is usually the Embassy in The Hague or the Ministry of Foreign Affairs of the State in question.

For public international organizations, the Registrar addresses the communications of the Court to the Director-General or Secretary-General of the organization as the case may be.

(c) *Minutes*

The Registrar is present at all sittings and meetings of the Court and is responsible for drawing up the minutes. After being signed by the President and the Registrar, these minutes are filed in the archives (Statute, Art. 47; Rules, Art. 21, Art. 26, para. 1 *(f)-(i)*, and Art. 71; Instructions for the Registry, Art. 19).

(d) *General List*

The Registrar prepares and keeps up to date a General List of cases submitted to the Court (Rules, Art. 26, para. 1 *(b)*, and Art. 38, para. 5; Instructions for the Registry, Art. 6, para. 1, and Art. 46, para. 3).

Extracts from the General List are supplied by the Registry on request, in the form of *Background Notes II* and *II bis: Synopsis of cases referred to the International Court of Justice (1947-1969* and *1969-1976)*.

(For the General List of the *Permanent Court of International Justice*, see *P.C.I.J., Series E, No. 16*, pp. 92-147.)

2. *Procedure in Contentious Cases*

(a) *Institution of proceedings and appointment of agents*

As soon as proceedings are instituted (see Chap. III, pp. 72-74, above), the special agreement or the application, filed in one of the two official languages of the Court, is translated and printed in a bilingual edition by the Registry, then communicated to all concerned and to the States entitled to appear before the Court (Statute, Art. 40; Rules, Art. 38, paras. 4 and 5; Art. 39, para. 1, and Art. 42).

The Registrar arranges for the publication of a communiqué informing the general public and the press that proceedings have been instituted. Copies of the special agreement or application may be obtained on request.

The party which files a document instituting proceedings informs the Court at the same time of the name of the agent who will be its representative in the proceedings and take steps on its behalf; the other party then appoints its agent as soon as possible (Statute, Art. 42; Rules, Art. 40). A party may also appoint a co-agent, a deputy-agent or an additional agent. Agents, and counsel and advocates also, enjoy such privileges and immunities as may be required for the independent exercise of their duties (Statute, Art. 42, para. 3; *I.C.J. Acts and Documents No. 5*, pp. 205 and 209).

The President, who is required to ascertain the views of the parties on questions of procedure, summons the agents to meet him as soon as possible after their appointment and whenever necessary thereafter (Rules, Art. 31).

(b) *Written proceedings*

The written proceedings comprise the filing of pleadings within time-limits fixed in orders made by the Court or, if it is not sitting, the President; the pleadings are in principle confined to a Memorial and a Counter-Memorial, though the Court may if it thinks fit authorize or direct that there be a Reply and a Rejoinder (Statute, Art. 43; Rules, Arts. 44-46 and 48; Instructions for the Registry, Art. 14).

The party's submissions are set out in each pleading (Rules, Art. 49).

The agent of the party filing the pleading supplies the Registry (Statute, Art. 43, paras. 3 and 4; Rules, Arts. 50-52) with the following:

- an original copy of the pleading, signed by him, to which is annexed a certified copy of any relevant document adduced in support of the contentions put forward;
- an English or French translation, certified by him to be accurate, of any part of a pleading or annexed document submitted in another language;
- a copy, certified by him, of the pleading and annexed documents, for communication to the other party;
- 125 further copies of the pleading and annexed documents;
- in the case of any document of which only parts are relevant and only necessary extracts have been annexed to the pleading, a copy of the whole document.

The format for the pleadings and annexes is 19 × 26 cm. If they are submitted in printed form, which is not compulsory, it is recommended that the Court's Typographical Rules (supplied by the Registry on request) be complied with. If the composition is entrusted to one of the printers who work for the Court, so that it is not necessary to re-compose the texts when they come to be used in the Court's series *Pleadings, Oral Arguments, Documents* (see *(e)* below), the Court will at that stage reimburse half the cost, at the normal rate, of the composition of the pleading itself and of such annexes as are to be reproduced in the *Pleadings* series (but excluding any text in a language other than English or French or entirely reproduced from another printed pleading).

The Registry usually translates, for the judges, pleadings and annexed documents, filed in one of the official languages of the Court, into the other official language (Rules, Art. 26, para. 1 *(g)*).

The Registrar arranges for the publication of communiqués giving information concerning the course of the written proceedings. Moreover, the Court may, after ascertaining the views of the parties, communicate the pleadings on request to any State entitled to appear before the Court. It may also, after ascertaining the parties' views, make the pleadings available to the general public and the press on or after the opening of the oral proceedings (Rules, Art. 53); this is generally done by depositing copies in a number of Information Centres and libraries, including the Peace Palace Library. The pagination of the pleadings and annexed documents which may thus be made accessible is provisional in character. They are not given their final pagination until they are published in the *I.C.J. Pleadings* series (see *(e)* below).

(c) *Oral proceedings*

Upon the closure of the written proceedings, a case is ready for hearing. The opening date of the oral proceedings is fixed by the Court or, if it is not sitting, the President (Rules, Art. 54). Public sittings are held at the seat of the Court, usually from 10 a.m. to 1 p.m. on weekdays. They are devoted to hearing the arguments of counsel and such evidence of witnesses or experts as the parties may call; the Court itself may also arrange for a witness to be heard, entrust any individual, body or organization with the task of giving an expert opinion or decide on an inspection *in loco*[1] (Statute, Arts. 43-46 and 48-51; Rules, Arts. 57-68; Instructions for the Registry, Art. 20).

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[1] In the *Corfu Channel (United Kingdom* v. *Albania)* case, the Court heard witnesses and experts presented by each of the Parties, appointed experts by Order and prescribed an enquiry on the spot. In the *Temple of Preah Vihear (Cambodia* v. *Thailand)* case, it heard witnesses and experts presented by each of the Parties. In the *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa)* cases, it heard witnesses and experts presented by one Party, but did not accede to a request concerning an inspection *in loco*. In *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*, it heard an expert presented by one Party. The Chamber constituted in the *Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America)* case heard an expert presented by one Party and itself appointed, by Order, at the request of the Parties and in accordance with the Special Agreement concluded between them, a technical expert to assist it in its work. In the case concerning the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*, the Court heard experts presented by each of the Parties. In the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* it heard witnesses presented by one Party. The Chamber constituted in the case concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* heard witnesses presented by one of the Parties and experts presented by each of them. In the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras: Nicaragua intervening)* the Court heard a witness presented by one of the Parties, but did not accede to a request concerning an inspection *in loco*. The Court did pay a visit to the site of the hydroelectric dam project at Gabčíkovo-Nagymaros in the case concerning *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*.

The Court settles the order in which the parties are heard, the number of counsel who will address the Court, and the method of handling the evidence (Rules, Art. 58, para. 2). It is customary for the parties to present their arguments in the order in which their pleadings have been deposited or, in the case of proceedings instituted by special agreement, in the order laid down by the Court after consultations with the agents of the parties. Speeches and statements are normally made in one of the Court's two official languages and are (simultaneously) interpreted into the other; arrangements may be made for some other language to be used (Statute, Art. 39; Rules, Art. 70; Instructions for the Registry, Art. 17).

When the Court or a judge puts a question to the agents, counsel and advocates, the answer may be given either immediately or within a time-limit fixed by the President; if given in writing it is communicated to the other party (Rules, Art. 61, paras. 2-4, and Art. 72).

A provisional verbatim record of each public sitting is drawn up by the Registry in the official language used, and translated into the other; copies in the original official language are then communicated to the parties and to the witnesses and experts in order that mistakes may be corrected under the supervision of the Court (Statute, Art. 47; Rules, Art. 71). A period of 24 hours is usually allowed for the submission of corrections.

In the course of the hearings each party reads out its final submissions and hands the Registrar copies of the text (Rules, Art. 60, para. 2). The filing of new documents after closure of the written proceedings is permissible only with the other party's consent or the authorization of the Court; such documents must be filed in the same number of copies as the pleadings (see *(b)* above); the Registrar transmits them to the other party with a request for observations. No reference may be made to the contents of any document which has not been duly produced, unless the document is part of a publication readily available (Statute, Art. 52; Rules, Art. 56).

The Registrar issues communiqués giving all necessary information as to the dates of the hearings (Instructions for the Registry, Art. 12). Admission cards are issued to members of the diplomatic corps and to representatives of the press and also to any person who makes application either in writing or in person at the Peace Palace on the occasion of a hearing. Photographs may be taken before the opening of hearings. Filming for cinema or television purposes is, however, subject to special authorization. There is a Press Room within the Peace Palace, and also a Post Office where a number of telephones are available for the use of journalists. As soon as the provisional, uncorrected verbatim records of each hearing have been duplicated they are made available to representatives of the press, though neither the text nor the pagination is final at that stage (see *(e)* below).

(d) *Deliberations*

After the close of the oral proceedings, the Court withdraws to deliberate in private and to prepare a judgment. The deliberations of the

Court are conducted *in camera* and remain confidential. This applies to all aspects of the deliberations, including the schedule of meetings (Statute, Arts. 54-55; Rules, Arts. 19-21; Instructions for the Registry, Art. 16).

The manner in which the Court conducts its deliberations is governed by a resolution concerning the internal judicial practice of the Court, the most recent version of which was adopted on 12 April 1976 (see *I.C.J. Acts and Documents No. 5*, pp. 165-173).

(e) *Judgment*

The judgment is read out at a public sitting for which similar arrangements are made as for a hearing in open court, in particular with regard to the admission of the public and the assistance provided to representatives of the press (see *(c)* above).

The judgment is prepared in both official languages, of which one is indicated as authoritative (Statute, Art. 39; Rules, Art. 96). If it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the judgment indicates the names of the judges constituting the majority (Statute, Arts. 56-58; Rules, Arts. 94 and 95).

Three original copies of the judgment are signed by the President and the Registrar and are then sealed; one is placed in the archives of the Court and the others are handed to the parties (Rules, Art. 95, para. 3; Instructions for the Registry, Art. 21).

Immediately after the public reading, copies of a special duplicated *tirage* are placed at the disposal of the judges and the representatives of the parties. At the same time an unofficial communiqué summarizing the decision is issued on the authority of the Registrar.

As soon as possible, the printed text of the judgment becomes available as a separate fascicle in the *I.C.J. Reports* series, which is sent to States entitled to appear before the Court and is placed on sale. Subsequently, the documentation of the case is published in one or more printed volumes of the series entitled *I.C.J. Pleadings, Oral Arguments, Documents*. It is these printed texts (see Chap. VII, pp. 324-330, below) which should be used for all purposes of quotation or citation.

(f) *Expenses and costs*

The expenses of the Court, including amounts payable to witnesses or experts appearing at the instance of the Court (Rules, Art. 68; Instructions for the Registry, Art. 18), are borne out of the United Nations budget; if a party to a case does not contribute to the United Nations budget, the Court itself fixes the amount payable by that party as a contribution towards the expenses of the Court for the case (see Chap. VIII, p. 331, below).

Each party bears its own costs, unless the Court makes an order in favour of a party for the payment of the costs (Statute, Art. 64; Rules, Art. 95, para. 1, and Art. 97).

In addition, there exists a Secretary-General's Trust Fund to Assist States in the Settlement of Disputes through the International Court of Justice, established on 1 November 1989[1]. The Fund is designed to encourage States to settle their disputes peaceably by submitting them to the Court. To be eligible for funding, a State must be entitled to appear before the Court (see Chap. III, pp. 63-70, for an explanation of which States are so entitled) and demonstrate a need for financial assistance. In addition, the dispute must be submitted to the Court by Special Agreement.

3. Occasional Rules in Contentious Cases

(a) *Provisional measures*

The Court has the power to indicate provisional measures (Statute, Art. 41). A request for such measures is treated as a matter of urgency, and the Court's decision is given in an order (Rules, Arts. 73-78)[2].

(b) *Joinder of proceedings*

The Court may direct that the proceedings in two or more cases be joined (Rules, Art. 47). It does this by means of an order[3].

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[1] Cf. United Nations doc. A/44/PV.43 (1989).

[2] Such provisional measures have been requested in the following 20 cases: *Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Interhandel (Switzerland* v. *United States of America); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Frontier Dispute (Burkina Faso/Republic of Mali)* (case referred to a Chamber); *Border and Transborder Armed Actions (Nicaragua* v. *Honduras)* (in this case the request was withdrawn); *Arbitral Award of 31 July 1989 (Guinea-Bissau* v. *Senegal); Passage through the Great Belt (Finland* v. *Denmark)*; *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)* (in this case two requests were made by Bosnia and Herzegovina and one by Yugoslavia; *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria); Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the Nuclear Tests* (New Zealand *v.* France) *Case; Vienna Convention on Consular Relations (Paraguay* v. *United States of America).*

[3] Proceedings were joined in the following cases: *South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); North Sea Continental Shelf (Federal Republic of Germany/Denmark; Federal Republic of Germany/Netherlands).*

(c) *Preliminary objections*

Preliminary objections (see Chap. III, p. 73, above) must be filed within the time-limit fixed for the filing of the Counter-Memorial (Rules, Art. 79). They suspend the proceedings on the merits and may be answered by the observations and submissions of the opposing party, to be filed within a time-limit fixed by an order. Oral proceedings on the objections ensue, the party which raised them being called upon to speak first. The Court gives its decision on the objections in a judgment; if it dismisses them, the proceedings on the merits are resumed from the point of interruption; they are likewise resumed if it declares that the objections do not possess an exclusively preliminary character[1]. The Court may also give effect to an agreement between the parties that objections should be heard and determined within the framework of the merits[2].

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[1] The Court gave its decision on the preliminary objections raised in the following 20 cases: *Corfu Channel (United Kingdom* v. *Albania); Ambatielos (Greece* v. *United Kingdom); Anglo-Iranian Oil Co. (United Kingdom* v. *Iran); Nottebohm (Liechtenstein* v. *Guatemala); Monetary Gold Removed from Rome in 1943 (Italy* v. *France, United Kingdom and United States of America); Certain Norwegian Loans (France* v. *Norway); Right of Passage over Indian Territory (Portugal* v. *India); Interhandel (Switzerland* v. *United States of America); Aerial Incident of 27 July 1955 (Israel* v. *Bulgaria); Temple of Preah Vihear (Cambodia* v. *Thailand); South West Africa (Ethiopia* v. *South Africa; Liberia* v. *South Africa); Northern Cameroons (Cameroon* v. *United Kingdom); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain); Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia); Oil Platforms (Islamic Republic of Iran* v. *United States of America); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America); Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*. In other cases the Court was not called upon to give a decision on the preliminary objections, either because they were withdrawn *(Rights of Nationals of the United States of America in Morocco (France* v. *United States of America))* or as the result of a discontinuance *(Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited* (first application) *(Belgium* v. *Spain); Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America))*. The Court also dealt with questions of jurisdiction or admissibility in the following 11 cases: *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan); Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland); Nuclear Tests (Australia* v. *France) (New Zealand* v. *France); Aegean Sea Continental Shelf (Greece* v. *Turkey); United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran); Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*; and *East Timor (Portugal* v. *Australia)*. The Court has still to decide questions of jurisdiction and admissibility in the pending case concerning *Fisheries Jurisdiction (Spain* v. *Canada)*.

[2] This was done in the cases concerning *Elettronica Sicula S.p.A. (ELSI) (United States of America* v. *Italy)* and *East Timor (Portugal* v. *Australia)*. Preliminary objections were joined to the merits under the pre-1972 Rules of Court after agreement between the Parties in the case concerning *Certain Norwegian Loans (France* v. *Norway)* and by decision of the Court in the following two cases: *Right of Passage over Indian Territory (Portugal* v. *India); Barcelona Traction, Light and Power Company, Limited (New Application: 1962) (Belgium* v. *Spain)*.

(d) *Intervention, presentation of information*

A third State may request to be permitted to intervene if it considers that it has an interest of a legal nature which may be affected by the decision in the case; it is for the Court to decide upon such a request (Statute, Art. 62; Rules, Arts. 81 and 83-85)[1].

If the dispute relates to the construction of a convention to which States other than those concerned in the case are parties, these States are notified forthwith and have the right to intervene in the proceedings (Statute, Art. 63; Rules, Arts. 43, 82-84 and 86)[2].

Similarly, public international organizations may, at the request of the Court or a party or on their own initiative, furnish the Court with information relevant to cases before it; whenever the construction of their constituent instruments or of a convention adopted thereunder is in question, they are notified (Statute, Art. 34, paras. 2 and 3; Rules, Art. 69).

(e) *Default, settlement, discontinuance*

If one of the parties does not appear before the Court or fails to defend its case, the other party may call upon the Court to decide in favour of its claim (Statute, Art. 53)[3].

The Court, or the President if the Court is not sitting, may, by way of an order, officially record the conclusion of a settlement or a discontinuance (Rules, Arts. 88 and 89)[1].

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[1] Permission to intervene was applied for in the *Nuclear Tests* cases *(Australia* v. *France) (New Zealand* v. *France)*, in the cases concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)* and the *Continental Shelf (Libyan Arab Jamahiriya/Malta)*; in the case concerning the *Land, Island and Maritime Frontier Dispute (El Salvador/Honduras)* and in the *Request for an Examination of the Situation in Accordance with Paragraph 63 of the Court's Judgment of 20 December 1974 in the* Nuclear Tests (New Zealand v. France) *Case*. In the last case, several States filed a document entitled "Application for Permission to Intervene under Article 62/Declaration of Intervention under Article 63".

[2] A third State intervened in the *Haya de la Torre (Colombia* v. *Peru)* case and a Declaration of Intervention was submitted in the case concerning *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)*. (See also footnote 1 above.)

[3] A number of judgments and orders were delivered in the absence of one of the parties: *Corfu Channel (United Kingdom* v. *Albania), Assessment of Amount of Compensation; Anglo-Iranian Oil Co. (United Kingdom* v. *Iran), Interim Protection; Nottebohm (Liechtenstein* v. *Guatemala), Preliminary Objection; Fisheries Jurisdiction (United Kingdom* v. *Iceland) (Federal Republic of Germany* v. *Iceland), Interim Protection, Jurisdiction of the Court* and *Merits; Nuclear Tests (Australia* v. *France) (New Zealand* v. *France), Interim Protection* and *Second Phase; Trial of Pakistani Prisoners of War (Pakistan* v. *India), Interim Protection; Aegean Sea Continental Shelf (Greece* v. *Turkey), Interim Protection* and *Jurisdiction of the Court; United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran), Provisional Measures* and *Merits; Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America), Merits; Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain), Jurisdiction and Admissibility*.

(f) *Execution, interpretation or revision of judgments*

The judgments of the Court are binding, final and without appeal (Charter, Art. 94, para. 1; Statute, Arts. 59-60; Rules, Art. 94, para. 2). The parties may, however, make a request for interpretation or, in certain circumstances, for revision of a judgment (see above, Chap. III, p. 74). The decision of the Court on such requests is given in the form of a judgment (Statute, Arts. 60-61; Rules, Arts. 98-100)[2,3].

Article 94, paragraph 2, of the Charter of the United Nations states that, if any party to a case fails to perform the obligations incumbent upon it under a judgment, the other party may have recourse to the Security Council.

(g) *Special reference to the Court*

When a matter which has been the subject of proceedings before some other international body is brought before the Court, the provisions of the Statute and of the Rules apply (Rules, Art. 87)[4].

4. *Procedure in Advisory Cases*

In addition to the Rules of Court which are expressly applicable to proceedings in regard to advisory opinions, the Court is guided by the provisions which apply in contentious proceedings (Statute, Art. 68; Rules, Art. 102). It may thus be led to apply the articles of the Statute concerning judges *ad hoc* (see Chap. I, pp. 12-16, above).

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[1] The following 13 cases ended in discontinuance: *Protection of French Nationals and Protected Persons in Egypt (France* v. *Egypt); Electricité de Beyrouth Company (France* v. *Lebanon); Aerial Incident of 27 July 1955 (United States of America* v. *Bulgaria) (United Kingdom* v. *Bulgaria); Barcelona Traction, Light and Power Company, Limited (Belgium* v. *Spain)* (first application); *Compagnie du Port, des Quais et des Entrepôts de Beyrouth and Société Radio-Orient (France* v. *Lebanon); Trial of Pakistani Prisoners of War (Pakistan* v. *India); Border and Transborder Armed Actions (Nicaragua* v. *Costa Rica); Border and Transborder Armed Actions (Nicaragua* v. *Honduras); Passage through the Great Belt (Finland* v. *Denmark); Certain Phosphate Lands in Nauru (Nauru* v. *Australia); Maritime Delimitation between Guinea-Bissau and Senegal (Guinea-Bissau* v. *Senegal); Aerial Incident of 3 July 1988 (Islamic Republic of Iran* v. *United States of America)*. Furthermore, the cases concerning *United States Diplomatic and Consular Staff in Tehran (United States of America* v. *Iran)* and *Military and Paramilitary Activities in and against Nicaragua (Nicaragua* v. *United States of America)* ended in discontinuance as regarded the question of reparation which the Judgment had left to be settled.

[2] The Court gave a decision on a request for interpretation of its Judgment in the *Asylum (Colombia/Peru)* case. See also p. 74, footnotes 1 and 2, above.

[3] The Court gave a decision on an application for revision and interpretation submitted by Tunisia in connection with its Judgment in the case concerning the *Continental Shelf (Tunisia/Libyan Arab Jamahiriya)*.

[4] The Court was seised of an *Appeal Relating to the Jurisdiction of the ICAO Council (India* v. *Pakistan)* in the case of that name.

The practical information given concerning the course of the procedure in contentious cases (see under 2, above) applies *mutatis mutandis* to the procedure in regard to advisory opinions, in particular as regards arrangements for the public and the representatives of the press.

(a) *Request*

Notice of a request for an advisory opinion (see Chap. III, pp. 74-76, above) is addressed to the Court by the Secretary-General of the United Nations or the chief administrative officer of the organization authorized to make the request; all documents likely to throw light upon the question are to be transmitted at the same time as the request or as soon as possible thereafter (Statute, Art. 65, para. 2; Rules, Art. 104).

Notice of the request for an advisory opinion is given to all States entitled to appear before the Court (Statute, Art. 66, para. 1).

In addition, the Court gives the States and international organizations considered likely to be able to furnish information on the question an opportunity to submit their views in writing or orally, or both (Statute, Art. 66, paras. 2-4).

(b) *Written and oral proceedings*

A request for an opinion usually gives rise to written proceedings followed by oral proceedings (Statute, Art. 66; Rules, Arts. 105 and 106).

In the case of urgency, the Court takes all necessary steps to accelerate the procedure (Rules, Art. 103)[1].

(c) *Deliberations*

The deliberations are conducted in the same manner as in contentious cases (Rules, Arts. 19-21 and 107; resolution concerning the Internal Judicial Practice of the Court, Art. 10).

(d) *Advisory opinion*

The advisory opinion is read in open Court; if it does not represent in whole or in part the unanimous opinion of the judges, any judge is entitled to attach a dissenting or separate opinion, or a declaration which records his position without stating his reasons; the advisory opinion indicates the names of the judges constituting the majority (Statute, Art. 67; Rules, Arts. 107 and 108).

One of the original copies of the advisory opinion is transmitted to the body which made the request (Rules, Art. 109).

The opinions given by the Court are purely advisory in character. The body requesting the opinion may however be committed to accepting it as binding by the terms of the instrument under which it is authorized to request advisory opinions of the Court.

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[1] The Court decided to accelerate the procedure in accordance with Article 103 of the Rules in the case concerning the *Applicability of the Obligation to Arbitrate under Section 21 of the United Nations Headquarters Agreement of 26 June 1947*.

IV. OCCASIONAL FUNCTIONS ENTRUSTED TO THE PRESIDENT OF THE INTERNATIONAL COURT OF JUSTICE

1. International Instruments Providing for Appointment of Arbitrators, etc.

There are many international instruments which provide that in certain eventualities the President of the Court may be requested by the contracting parties to appoint arbitrators, umpires, members of conciliation commissions, etc. Requests of this sort have always been acceded to.

States proposing to insert such a provision in a treaty may consult the President as to his willingness to accept such a task, and submit the draft provision to him. This frequently provides that, if the President is of the nationality of one of the parties to the dispute, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

Such a provision is found, for instance, in bilateral agreements relating to air transport, social security, reparations or guarantees, loans, technical co-operation and the protection of investments; in multilateral treaties; in conventions or agreements concerning the constitution, status or privileges and immunities of international organizations; and in agreements or contracts concluded between States and international organs.

2. Other Requests for Appointment of Arbitrators

The President of the Court is sometimes requested to appoint arbitrators under the terms of contracts concluded between a State and a corporation or between corporations. Such requests are generally acceded to.

In such cases, too, the usual practice is to consult the President in advance and to submit the draft contract to him. It is usually provided that if the President is of the same nationality as one of the parties to the contract, the appointment should be made either by the Vice-President or by the senior Member of the Court not so disqualified.

3. Other Appointments

The President has also at times been requested by States or international organizations to appoint persons to fill other offices.

Such appointments are, for instance, provided for in texts such as Article 12 of the Protocol of 23 June 1953 for limiting and regulating the cultivation of the poppy plant, the production of, international and wholesale trade in, and use of opium, or Article 4 of the Regulations for the execution of the Convention of 14 May 1954 for the protection of cultural property in the event of armed conflict or, again, Rule 109.1 *(a)* of the Staff Rules of the United Nations and Regulation 9.1.1 of the Staff Regulations of the United Nations Educational, Scientific and Cultural Organization.

CHAPTER VI

WORK OF THE COURT IN 1997-1998

During the period under review ten contentious cases were pending (see, however, the remarks made on "cases within cases" in the response of the Court to General Assembly resolution 52/161 (cf. Appendix, pp. 275-286)). The Court held 23 public sittings and a great number of private meetings. It delivered a Judgment on the merits in the case concerning the *Gabčikovo-Nagymaros Project (Hungary/Slovakia)* and three Judgments on preliminary objections, in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, and *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*.

It also made an Order on a request for the indication of provisional measures in the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* and two Orders concerning counter-claims, in the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)* and *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*. The Court further made Orders fixing time-limits in the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*, *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* and *Kasikili/Sedudu Island (Botswana/Namibia)*.

The President of the Court made an Order extending time-limits in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*. The Vice-President of the Court, Acting President, made Orders fixing or extending time-limits in the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* and the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*.

I. CASES BEFORE THE COURT

1. Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v. *Bahrain)*

On 8 July 1991, the Government of the State of Qatar filed in the Registry of the Court an Application instituting proceedings against the Government of the State of Bahrain

> "in respect of certain existing disputes between them relating to sovereignty over the Hawar islands, sovereign rights over the shoals of Dibal and Qit'at Jaradah, and the delimitation of the maritime areas of the two States".

Qatar claimed that its sovereignty over the Hawar islands was well founded on the basis of customary international law and applicable local practices and customs. It had therefore continuously opposed a decision announced by the British Government in 1939, during the time of the British presence in Bahrain and Qatar (which came to an end in 1971), that the islands belonged to Bahrain. This decision was, in the view of Qatar, invalid, beyond the power of the British in relation to the two States, and not binding on Qatar.

With regard to the shoals of Dibal and Qit'at Jaradah, a further decision of the British Government in 1947 to delimit the sea-bed boundary between Bahrain and Qatar purported to recognize that Bahrain had "sovereign rights" in the areas of those shoals. In that decision the view was expressed that the shoals should not be considered to be islands having territorial waters. Qatar had claimed and continued to claim that such sovereign rights as existed over the shoals belonged to Qatar; it also considered however that these were shoals and not islands. Bahrain claimed in 1964 that Dibal and Qit'at Jaradah were islands possessing territorial waters, and belonged to Bahrain, a claim rejected by Qatar.

With regard to the delimitation of the maritime areas of the two States, in the letter informing the Rulers of Qatar and Bahrain of the 1947 decision it was stated that the British Government considered that the line divided "in accordance with equitable principles" the sea-bed between Qatar and Bahrain, and that it was a median line based generally on the configuration of the coastline of the Bahrain main island and the peninsula of Qatar. The letter further specified two exceptions. One concerned the status of the shoals; the other that of the Hawar islands.

Qatar stated that it did not oppose that part of the delimitation line which the British Government stated was based on the configuration of the coastlines of the two States and was determined in accordance with equitable principles. It had been rejecting and still rejected the claim made in 1964 by Bahrain (which had refused to accept the abovementioned delimitation by the British Government) of a new line delimiting the sea-bed boundary of the two States. Qatar based its claims with respect to delimitation on customary international law and applicable local practices and customs.

The State of Qatar therefore requested the Court:

> "I. To adjudge and declare in accordance with international law
>
> (A) that the State of Qatar has sovereignty over the Hawar islands; and
>
> (B) that the State of Qatar has sovereign rights over Dibal and Qit'at Jaradah shoals;
>
> and
>
> II. With due regard to the line dividing the sea-bed of the two States as described in the British decision of 23 December 1947, to draw in accordance with international law a single maritime boundary between the maritime areas of sea-bed, subsoil and superjacent waters appertaining respectively to the State of Qatar and the State of Bahrain."

In the Application, Qatar founded the jurisdiction of the Court upon certain agreements between the Parties stated to have been concluded in December 1987 and December 1990, the subject and scope of the commitment to jurisdiction being determined, according to Qatar, by a formula proposed by Bahrain to Qatar on 26 October 1988 and accepted by Qatar in December 1990.

By letters addressed to the Registrar of the Court on 14 July 1991 and 18 August 1991, Bahrain contested the basis of jurisdiction invoked by Qatar.

At a meeting held on 2 October 1991 to enable the President of the Court to ascertain their views, the Parties reached agreement as to the desirability of the proceedings being initially devoted to the questions of the Court's jurisdiction to entertain the dispute and the admissibility of the Application. The President accordingly made, on 11 October 1991, an Order (*I.C.J. Reports 1991*, p. 50) deciding that the written proceedings should first be addressed to those questions; in the same Order he fixed the following time-limits in accordance with a further agreement reached between the Parties at the meeting of 2 October: 10 February 1992 for the Memorial of Qatar, and 11 June 1992 for the Counter-Memorial of Bahrain. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

By an Order of 26 June 1992 (*I.C.J. Reports 1992*, p. 237), the Court, having ascertained the views of the Parties, directed that a Reply by the Applicant and a Rejoinder by the Respondent be filed on the questions of jurisdiction and admissibility. It fixed 28 September 1992 as the time-limit for the Reply of Qatar and 29 December 1992 for the Rejoinder of Bahrain. Both the Reply and the Rejoinder were filed within the prescribed time-limits.

Qatar chose Mr. José María Ruda and Bahrain Mr. Nicolas Valticos to sit as judges *ad hoc*. Following Mr. Ruda's death, Qatar chose Mr. Santiago Torres Bernárdez to sit as judge *ad hoc*.

Oral proceedings were held from 28 February to 11 March 1994. In the course of eight public sittings, the Court heard statements on behalf of Qatar and Bahrain.

At a public sitting held on 1 July 1994, the Court delivered a Judgment (*I.C.J. Reports 1994*, p. 112) by which it found that the exchanges of letters between the King of Saudi Arabia and the Amir of Qatar dated 19 and 21 December 1987, and between the King of Saudi Arabia and the Amir of Bahrain dated 19 and 26 December 1987, and the document headed "Minutes" and signed at Doha on 25 December 1990 by the Ministers for Foreign Affairs of Bahrain, Qatar and Saudi Arabia, were international agreements creating rights and obligations for the Parties; and that, by the terms of those agreements, the Parties had undertaken to submit to the Court the whole of the dispute between them, as circumscribed by the Bahraini formula. Having noted that it had before it only an Application from Qatar setting out that State's specific claims in connection with that formula, the Court decided to afford the Parties the opportunity to submit to it the whole of the dispute. It fixed 30 November 1994 as the time-limit within which the Parties were jointly or separately to take action to that end and reserved any other matters for subsequent decision.

Judge Shahabuddeen appended a declaration to the Judgment (*I.C.J. Reports 1994*, p. 129); Vice-President Schwebel and Judge *ad hoc* Valticos appended separate opinions (*ibid.*, pp. 130-131 and 132); and Judge Oda appended a dissenting opinion (*ibid.*, pp. 133-149).

On 30 November 1994, the date fixed in the Judgment of 1 July, the Court received from the Agent of Qatar a letter transmitting an "Act to comply with paragraphs (3) and (4) of the operative paragraph 41 of the Judgment of the Court dated 1 July 1994". On the same day, the Court received a communication from the Agent of Bahrain, transmitting the text of a document entitled "Report of the State of Bahrain to the International Court of Justice on the attempt by the Parties to implement the Court's Judgment of 1st July, 1994".

In view of those communications, the Court resumed dealing with the case.

At a public sitting held on 15 February 1995, the Court delivered a Judgment on jurisdiction and admissibility (*I.C.J. Reports 1995*, p. 6) by which it found that it had jurisdiction to adjudicate upon the dispute submitted to it between the State of Qatar and the State of Bahrain and that the Application of the State of Qatar as formulated on 30 November 1994 was admissible.

Vice-President Schwebel, Judges Oda, Shahabuddeen and Koroma, and Judge *ad hoc* Valticos appended dissenting opinions to the Judgment (*I.C.J. Reports 1995*, pp. 27-39, 40-50, 51-66, 67-73 and 74-78).

Judge *ad hoc* Valticos resigned as of the end of the jurisdiction and admissibility phase of the proceedings.

By an Order of 28 April 1995 (*I.C.J. Reports 1995*, p. 83), the Court, having ascertained the views of Qatar and having given Bahrain an opportunity of stating its views, fixed 29 February 1996 as the time-limit for the filing by each of the Parties of a Memorial on the merits. On the request of Bahrain, and after the views of Qatar had been ascertained, the Court, by an Order of 1 February 1996 (*I.C.J. Reports 1996*, p. 6), extended that time-limit to 30 September 1996. The two Memorials were filed within the thus extended time-limit.

By an Order of 30 October 1996 (*I.C.J. Reports 1996*, p. 800), the President of the Court, taking into account the views of the Parties, fixed 31 December 1997 as the time-limit for the filing by each of the Parties of a Counter-Memorial on the merits.

As Judge *ad hoc* Valticos had resigned, Bahrain chose Mr. Mohamed Shahabuddeen to sit as judge *ad hoc*. After Judge *ad hoc* Shahabuddeen had, in his turn, resigned, Bahrain chose Mr. Yves L. Fortier to sit as judge *ad hoc* (see above, p. 16).

By a letter dated 25 September 1997 Bahrain informed the Court that it challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial, and submitted detailed analyses in support of its challenge. Stating that the matter was "distinct and severable from the merits", Bahrain announced that it would disregard the content of these documents for the purposes of preparing its Counter-Memorial.

By a letter of 8 October 1997, Qatar stated that in its view the objections raised by Bahrain were linked to the merits, but that the Court could not "expect Qatar, at the present stage of preparation of its own Counter-Memorial, to comment on the detailed Bahraini allegations".

After Bahrain, in a subsequent letter, had stated that the use by Qatar of the challenged documents gave rise to "procedural difficulties that strike at the fundamentals of the orderly development of the case" and that a new development, relevant to assessment of the authenticity of the documents concerned had taken place, the President of the Court held, on 25 November 1997, a meeting with the Parties at which it was agreed *inter-alia* that the Counter-Memorials would not deal with the question of the authenticity of the documents produced by Qatar and that other pleadings would be submitted by the Parties at a later date.

The Counter-Memorials of the Parties were duly filed and exchanged on 23 December 1997.

On 17 March 1998 the President held a further meeting to ascertain the views of the Parties on the subsequent procedure. Qatar suggested the prescription by the Court of the filing of a Reply by each of the Parties at the end of March 1999, in which case it would be able to annex to its Reply a comprehensive report on the question of the authenticity of the documents; it moreover proposed to submit to the Court, by the end of September 1998, an interim report on that question to which Bahrain would be able to respond in its Reply. Bahrain did not object to the procedure envisaged by Qatar as either unreasonable or unjust.

By an Order of 30 March 1998 (*I.C.J. Reports 1998*, p. 243), the Court then fixed 30 September 1998 as the time-limit for the filing of an interim report by Qatar and directed the filing of a Reply by each of the Parties within the time-limit of 30 March 1999.

2, 3. *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*

On 3 March 1992 the Government of the Socialist People's Libyan Arab Jamahiriya filed in the Registry of the Court two separate Applications instituting proceedings against the Government of the United Kingdom of Great Britain and Northern Ireland and against the United States of America in respect of a dispute over the interpretation and application of the Montreal Convention of 23 September 1971, a dispute arising from acts resulting in the aerial incident that occurred over Lockerbie, Scotland, on 21 December 1988.

In the Applications, Libya referred to the charging and indictment of two Libyan nationals by the Lord Advocate of Scotland and by a Grand Jury of the United States, respectively, with having caused a bomb to be placed aboard Pan Am flight 103. The bomb subsequently exploded, causing the aeroplane to crash, as a consequence of which 270 persons were killed.

Libya contended that the acts alleged constituted an offence within the meaning of Article 1 of the Montreal Convention, which it claimed to be the only appropriate convention in force between the Parties, and claimed that it had fully complied with its own obligations under that instrument, Article 5 of which required a State to establish its own jurisdiction over alleged offenders present in its territory in the event of their non-extradition; there was no extradition treaty between Libya and the respective other Parties, and Libya was obliged under Article 7 of the Convention to submit the case to its competent authorities for the purpose of prosecution.

Libya contended that the United Kingdom and the United States were in breach of the Montreal Convention through rejection of its efforts to resolve the matter within the framework of international law, including the Convention itself, in that they were placing pressure upon Libya to surrender the two Libyan nationals for trial.

According to the Applications, it had not been possible to settle by negotiation the disputes that had thus arisen, neither had the Parties been able to agree upon the organization of an arbitration to hear the matter. The Libyan Arab Jamahiriya therefore submitted the disputes to the Court on the basis of Article 14, paragraph 1, of the Montreal Convention.

Libya requested the Court to adjudge and declare as follows:

(a) that Libya has fully complied with all of its obligations under the Montreal Convention;

(b) that the United Kingdom and the United States respectively have breached, and are continuing to breach, their legal obligations to Libya under Articles 5 (2), 5 (3), 7, 8 (2) and 11 of the Montreal Convention; and

(c) that the United Kingdom and the United States respectively are under a legal obligation immediately to cease and desist from such breaches and from the use of any and all force or threats against Libya, including the threat of force against Libya, and from all violations of the sovereignty, territorial integrity, and the political independence of Libya.

Later the same day, Libya made two separate requests to the Court to indicate forthwith the following provisional measures:

(a) to enjoin the United Kingdom and the United States respectively from taking any action against Libya calculated to coerce or compel Libya to surrender the accused individuals to any jurisdiction outside of Libya; and

(b) to ensure that no steps are taken that would prejudice in any way the rights of Libya with respect to the legal proceedings that are the subject of Libya's Applications.

In those requests Libya also requested the President, pending the meeting of the Court, to exercise the power conferred on him by Article 74, paragraph 4, of the Rules of Court, to call upon the Parties to act in such a way as to enable any Order the Court might make on Libya's request for provisional measures to have its appropriate effects.

By a letter of 6 March 1992, the Legal Adviser of the United States Department of State, referring to the specific request made by Libya under Article 74, paragraph 4, of the Rules of Court, in its request for the indication of provisional measures, stated *inter alia* that

> "taking into account both the absence of any concrete showing of urgency relating to the request and developments in the ongoing action by the Security Council and the Secretary-General in this matter . . . the action requested by Libya . . . is unnecessary and could be misconstrued".

Libya chose Mr. Ahmed S. El-Kosheri to sit as judge *ad hoc*.

At the opening of the hearings on the request for the indication of provisional measures, on 26 March 1992, the Vice-President of the Court, exercising the functions of the presidency in the case, referred to the request made by Libya under Article 74, paragraph 4, of the Rules of Court and stated that, after the most careful consideration of all the circumstances then known to him, he had come to the conclusion that it would not be appropriate for him to exercise the discretionary power conferred on the President by that provision. At five public sittings held on 26, 27 and 28

March 1992, both Parties in each of the two cases presented oral arguments on the request for the indication of provisional measures.

At a public sitting held on 14 April 1992, the Court read the two Orders on the requests for indication of provisional measures filed by Libya (*I.C.J. Reports 1992*, pp. 3 and 114), in which it found that the circumstances of the cases were not such as to require the exercise of its power to indicate such measures.

Acting President Oda (*ibid.*, pp. 17-19 and 129-131) and Judge Ni (*ibid.*, pp. 20-23 and 132-135) each appended a declaration to the Orders of the Court; Judges Evensen, Tarassov, Guillaume and Aguilar-Mawdsley appended a joint declaration (*ibid.*, pp. 24-25 and 136-137). Judges Lachs (*ibid.*, pp. 26-27 and 138-139) and Shahabuddeen (*ibid.*, pp. 28-32 and 140-142) appended separate opinions; and Judges Bedjaoui (*ibid.*, pp. 33-49 and 143-159), Weeramantry (*ibid.*, pp. 50-71 and 160-181), Ranjeva (*ibid.*, pp. 72-77 and 182), Ajibola (*ibid.*, pp. 78-93 and 183-198) and Judge *ad hoc* El-Kosheri (*ibid.*, pp. 94-112 and 199-217) appended dissenting opinions to the Orders.

By Orders of 19 June 1992 (*ibid.*, pp. 231 and 234), the Court, taking into account that the length of time-limits had been agreed by the Parties at a meeting held on 5 June 1992 with the Vice-President of the Court, exercising the function of the presidency in the two cases, fixed 20 December 1993 as the time-limit for the filing of the Memorial of Libya and 20 June 1995 for the filing of the Counter-Memorials of the United Kingdom and the United States of America. The Memorial was filed within the prescribed time-limit.

On 16 and 20 June 1995 respectively the United Kingdom and the United States of America filed preliminary objections to the jurisdiction of the Court to entertain the Applications of the Libyan Arab Jamahiriya.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

After a meeting had been held, on 9 September 1995, between the President of the Court and the Agents of the Parties to ascertain the latters' views, the Court, by Orders of 22 September 1995 (*I.C.J. Reports 1995*, pp. 282 and 285), fixed, in each case, 22 December 1995 as the time-limit within which the Libyan Arab Jamahiriya might present a written statement of its observations and submissions on the preliminary objections raised by the United Kingdom and the United States of America respectively. Libya filed such statements within the prescribed time-limits.

The Secretary-General of the International Civil Aviation Organization, which had, in accordance with Article 34, paragraph 3, of the Statute, been informed that the interpretation of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aircraft, concluded in Montreal on 23 September 1971, was in issue in the two cases, and been communicated copies of the written proceedings, informed the Court that the Organization had "no observation to make for the time being", requesting, however, to be kept informed of the developments of the two cases, in order to determine whether it would be appropriate to submit observations at a later stage.

Judge Higgins having excused herself, the United Kingdom chose Sir Robert Jennings to sit as judge *ad hoc*.

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by the United Kingdom and the United States of America were held from 13 to 22 October 1997.

At public sittings held on 27 February 1998, the Court delivered the two Judgments on the preliminary objections (*I.C.J. Reports 1998*, pp. 9 and 115). Summaries of the Judgments are given below, followed by the text of the operative paragraphs.

1. Summary of the Judgment in the Case of Libya *v.* United Kingdom

Review of the proceedings and submissions (paras. 1-16)

On 3 March 1992 Libya filed in the Registry of the Court an Application instituting proceedings against the United Kingdom in respect of a "dispute between Libya and the United Kingdom concerning the interpretation or application of the Montreal Convention" of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation (hereinafter called "the Montreal Convention"). The Application referred to the destruction, on 21 December 1988, over Lockerbie (Scotland), of the aircraft on Pan Am flight 103, and to charges brought by the Lord Advocate for Scotland in November 1991 against two Libyan nationals suspected of having caused a bomb to be placed aboard the aircraft, which bomb had exploded causing the aeroplane to crash. The Application invoked as the basis for jurisdiction Article 14, paragraph 1, of the Montreal Convention.

On 3 March 1992, immediately after the filing of its Application, Libya submitted a request for the indication of provisional measures under Article 41 of the Statute. By an Order dated 14 April 1992, the Court, after hearing the Parties, found that the circumstances of the case were not such as to require the exercise of its power to indicate provisional measures.

Libya filed a Memorial on the merits within the prescribed time-limit. In the Memorial Libya requests the Court to adjudge and declare:

> "*(a)* that the Montreal Convention is applicable to this dispute;
>
> *(b)* that Libya has fully complied with all of its obligations under the Montreal Convention and is justified in exercising the criminal jurisdiction provided for by that Convention;
>
> *(c)* that the United Kingdom has breached, and is continuing to breach, its legal obligations to Libya under Article 5, paragraphs 2 and 3, Article 7, Article 8, paragraph 3, and Article 11 of the Montreal Convention;
>
> *(d)* that the United Kingdom is under a legal obligation to respect Libya's right not to have the Convention set aside by means

> which would in any case be at variance with the principles of the United Nations Charter and with the mandatory rules of general international law prohibiting the use of force and the violation of the sovereignty, territorial integrity, sovereign equality and political independence of States."

Within the time-limit fixed for the filing of its Counter-Memorial, the United Kingdom filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application. Libya for its part filed a written statement of its observations and submissions on the preliminary objections within the time-limit fixed by the Court. Hearings were held between 13 and 22 October 1997.

At the hearing the United Kingdom presented the following final submissions:

> "[T]he Court [is requested to] adjudge and declare that:
>
> it lacks jurisdiction over the claims brought against the United Kingdom by the Libyan Arab Jamahiriya
>
> and/or
>
> those claims are inadmissible;
> and that the Court dismiss the Libyan Application accordingly."

The final submissions of Libya were as follows:

> "The Libyan Arab Jamahiriya requests the Court to adjudge and declare:
>
> - that the Preliminary Objections raised by the United Kingdom . . . must be rejected and that, as a consequence:
>   - *(a)* the Court has jurisdiction to entertain the Application of Libya,
>   - *(b)* that the Application is admissible;
> - that the Court should proceed to the merits."

Jurisdiction of the Court (paras. 17-39)

The Court first considers the objection raised by the United Kingdom to its jurisdiction.

Libya submits that the Court has jurisdiction on the basis of Article 14, paragraph 1, of the Montreal Convention, which provides that:

> "Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

The Parties agree that the Montreal Convention is in force between them and that it was already in force both at the time of the destruction of the Pan Am aircraft over Lockerbie, on 21 December 1988, and at the time of filing of the Application, on 3 March 1992. However, the Respondent contests the jurisdiction of the Court because, in its submission, all the requisites laid down in Article 14, paragraph 1, of the Montreal Convention have not been complied with in the present case.

The Respondent expressly stated that it did not wish to contest the jurisdiction of the Court on all of the same grounds it had relied upon in the provisional measures phase of the proceedings, and restricted itself to alleging that Libya had failed to show, first, that there existed a legal dispute between the Parties and second, that such dispute, if any, concerned the interpretation or application of the Montreal Convention and fell, as a result, within the terms of Article 14, paragraph 1, of that Convention. Consequently, the United Kingdom did not, in the present phase of the proceedings, reiterate its earlier arguments as to whether or not the dispute that, in the opinion of Libya, existed between the Parties could be settled by negotiation; whether Libya had made a proper request for arbitration; and whether the six-month period required by Article 14, paragraph 1, of the Convention had been complied with.

The Court nonetheless considers it necessary to deal briefly with these arguments. Having examined them the Court concludes that the alleged dispute between the Parties could not be settled by negotiation or submitted to arbitration under the Montreal Convention, and the refusal of the Respondent to enter into arbitration to resolve that dispute absolved Libya from any obligation under Article 14, paragraph 1, of the Convention to observe a six-month period starting from the request for arbitration, before seising the Court.

Existence of a legal dispute of a general nature concerning the Convention (paras. 22-25)

In its Application and Memorial, Libya maintained that the Montreal Convention was the only instrument applicable to the destruction of the Pan Am aircraft over Lockerbie.

The United Kingdom does not deny that, as such, the facts of the case could fall within the terms of the Montreal Convention. However, it emphasizes that, in the present case, from the time Libya invoked the Montreal Convention, the United Kingdom has claimed that it was not relevant as the question to be resolved had to do with "the . . . reaction of the international community to the situation arising from Libya's failure to respond effectively to the most serious accusations of State involvement in acts of terrorism".

The Court finds that, consequently, the Parties differ on the question whether the destruction of the Pan Am aircraft over Lockerbie is governed by the Montreal Convention. A dispute thus exists between the Parties as to the legal régime applicable to this event. Such a dispute, in the view of the Court, concerns the interpretation and application of the Montreal Convention, and, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Existence of a specific dispute concerning Article 7 of the Convention (paras. 26-29)

The Court finds that in view of the positions put forward by the Parties with respect to the rights and obligations which Articles 1, 5, 6, 7 and 8 of the Convention would entail for them, there exists between them not only a dispute of a general nature, as defined above, but also a specific dispute which concerns the interpretation and application of Article 7 – read in conjunction with Article 1, Article 5, Article 6 and Article 8 – of the Convention and which, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Article 7 is worded in the following terms:

> "The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State."

Existence of a specific dispute concerning Article 11 of the Convention (paras. 30-33)

Furthermore, having taken account of the positions of the Parties as to the duties imposed by Article 11 of the Montreal Convention, the Court concludes that there equally exists between them a dispute which concerns the interpretation and application of that provision, and which, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Article 11 is worded as follows:

> "1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.
>
> 2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters."

Lawfulness of the actions of the Respondent (paras. 34-36)

With respect to the last submission of Libya (see above, submission *(d)* of the Memorial), the United Kingdom maintains that it is not for the

Court, on the basis of Article 14, paragraph 1, of the Montreal Convention, to decide on the lawfulness of actions which are in any event in conformity with international law, and which were instituted by the Respondent to secure the surrender of the two alleged offenders. It concludes from this that the Court lacks jurisdiction over the submissions presented on this point by Libya.

The Court points out that it cannot uphold the line of argument thus formulated. Indeed, it is for the Court to decide, on the basis of Article 14, paragraph 1, of the Montreal Convention, on the lawfulness of the actions criticized by Libya, in so far as those actions would be at variance with the provisions of the Montreal Convention.

Effect of the resolutions of the Security Council (paras. 37-38)

In the present case, the United Kingdom has contended, however, that even if the Montreal Convention did confer on Libya the rights it claims, they could not be exercised in this case because they were superseded by Security Council resolutions 748 (1992) and 883 (1993) which, by virtue of Articles 25 and 103 of the United Nations Charter, have priority over all rights and obligations arising out of the Montreal Convention. The Respondent has also argued that, because of the adoption of those resolutions, the only dispute which existed from that point on was between Libya and the Security Council; this, clearly, would not be a dispute falling within the terms of Article 14, paragraph 1, of the Montreal Convention and thus not one which the Court could entertain.

The Court finds that it cannot uphold this line of argument. Security Council resolutions 748 (1992) and 883 (1993) were in fact adopted after the filing of the Application on 3 March 1992. In accordance with its established jurisprudence, if the Court had jurisdiction on that date, it continues to do so; the subsequent coming into existence of the above-mentioned resolutions cannot affect its jurisdiction once established.

In the light of the foregoing, the Court concludes that the objection to jurisdiction raised by the United Kingdom on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention must be rejected, and that the Court has jurisdiction to hear the disputes between Libya and the United Kingdom as to the interpretation or application of the provisions of that Convention.

Admissibility of the Libyan Application (paras. 40-45)

The Court will now proceed to consider the objection of the United Kingdom that the Libyan Application is not admissible.

The principal argument of the United Kingdom in this context is that

> "what Libya claims to be the issue or issues in dispute between it and the United Kingdom are now regulated by decisions of the Security Council, taken under Chapter VII of the Charter of the United

> Nations, which are binding on both Parties and that (if there is any conflict between what the resolutions require and rights or obligations alleged to arise under the Montreal Convention) the resolutions have overriding effect in accordance with Article 103 of the Charter".

In this connection, the United Kingdom explains that

> "resolutions 748 and 883 are legally binding and they create legal obligations for Libya and the United Kingdom which are determinative of any dispute over which the Court might have jurisdiction".

According to the United Kingdom, those resolutions require the surrender of the two suspects by Libya to the United Kingdom or the United States for trial, and this determination by the Security Council is binding on Libya irrespective of any rights it may have under the Montreal Convention. On this basis, the United Kingdom maintains that

> "the relief which Libya seeks from the Court under the Montreal Convention is not open to it, and that the Court should therefore exercise its power to declare the Libyan Application inadmissible".

For its part, Libya argues that it is clear from the actual terms of resolutions 731 (1992), 748 (1992) and 883 (1993) that the Security Council has never required it to surrender its nationals to the United Kingdom or the United States; it stated at the hearing that this remained "Libya's principal argument". It added that the Court must interpret those resolutions "in accordance with the Charter, which determined their validity" and that the Charter prohibited the Council from requiring Libya to hand over its nationals to the United Kingdom or the United States. Libya concludes that its Application is admissible "as the Court can usefully rule on the interpretation and application of the Montreal Convention . . . independently of the legal effects of resolutions 748 (1992) and 883 (1993)". Libya furthermore draws the Court's attention to the principle that "The critical date for determining the admissibility of an application is the date on which it is filed."

In the view of the Court, this last submission of Libya must be upheld. The date, 3 March 1992, on which Libya filed its Application, is in fact the only relevant date for determining the admissibility of the Application. Security Council resolutions 748 (1992) and 883 (1993) cannot be taken into consideration in this regard since they were adopted at a later date. As to Security Council resolution 731 (1992), adopted before the filing of the Application, it could not form a legal impediment to the admissibility of the latter because it was a mere recommendation without binding effect, as was recognized moreover by the United Kingdom itself. Consequently, Libya's Application cannot be held inadmissible on these grounds.

In the light of the foregoing, the Court concludes that the objection to admissibility derived by the United Kingdom from Security Council resolutions 748 (1992) and 883 (1993) must be rejected, and that Libya's Application is admissible.

Objection that the Applicant's claims are without object (paras. 46-51)

In dealing with admissibility, the Agent of the United Kingdom also stated that his Government "ask[ed] the Court to rule that the intervening resolutions of the Security Council have rendered the Libyan claims without object".

The Court notes that it has already acknowledged, on several occasions in the past, that events subsequent to the filing of an application may "render an application without object" and "therefore the Court is not called upon to give a decision thereon". In the present case, the United Kingdom puts forward an objection aimed at obtaining from the Court a decision not to proceed to judgment on the merits, which objection must be examined within the framework of this jurisprudence.

The Court must satisfy itself that such an objection does indeed fall within the provisions of Article 79 of the Rules, relied upon by the Respondent. In paragraph 1, this Article refers to "Any objection . . . to the jurisdiction of the Court or to the admissibility of the application, *or other objection*" (emphasis added); its field of application *ratione materiae* is thus not limited solely to objections regarding jurisdiction or admissibility. However, if it is to be covered by Article 79, an objection must also possess a "preliminary" character. Paragraph 1 of Article 79 of the Rules of Court characterizes as "preliminary" an objection "the decision upon which is requested before any further proceedings". The Court considers in this respect that, in so far as the purpose of the objection raised by the United Kingdom that there is no ground for proceeding to judgment on the merits is, effectively, to prevent, *in limine*, any consideration of the case on the merits, so that its "effect [would] be, if the objection is upheld, to interrupt further proceedings in the case", and "it [would] therefore be appropriate for the Court to deal with [it] before enquiring into the merits", this objection possesses a preliminary character and does indeed fall within the provisions of Article 79 of the Rules of Court. It notes moreover that the objection concerned was duly submitted in accordance with the formal conditions laid down in Article 79.

Libya does not dispute any of these points. What Libya contends is that this objection falls within the category of those which paragraph 7 of Article 79 of the Rules of Court characterizes as objections "not possess[ing], in the circumstances of the case, an exclusively preliminary character".

On the contrary, the United Kingdom considers that the objection concerned possesses an "exclusively preliminary character" within the meaning of that provision; and, at the hearing, its Agent insisted on the need for the Court to avoid any proceedings on the merits, which to his mind were not only "likely to be lengthy and costly" but also, by virtue of the difficulty that "the handling of evidentiary material . . . might raise serious problems".

The Court finds that thus it is on the question of the "exclusively" or "non-exclusively" preliminary character of the objection here considered that the Parties are divided; and it concludes that it must therefore ascertain whether, in the present case, the United Kingdom's objection based on the Security Council decisions contains "both preliminary aspects and other aspects relating to the merits" or not.

The Court observes that that objection relates to many aspects of the dispute. By maintaining that Security Council resolutions 748 (1992) and 883 (1993) have rendered the Libyan claims without object, the United Kingdom seeks to obtain from the Court a decision not to proceed to judgment on the merits, which would immediately terminate the proceedings. However, by requesting such a decision, the United Kingdom is requesting, in reality, at least two others which the decision not to proceed to judgment on the merits would necessarily postulate: on the one hand a decision establishing that the rights claimed by Libya under the Montreal Convention are incompatible with its obligations under the Security Council resolutions; and, on the other hand, a decision that those obligations prevail over those rights by virtue of Articles 25 and 103 of the Charter.

The Court therefore has no doubt that Libya's rights on the merits would not only be affected by a decision, at this stage of the proceedings, not to proceed to judgment on the merits, but would constitute, in many respects, the very subject-matter of that decision. The objection raised by the United Kingdom on that point has the character of a defence on the merits.

The Court notes furthermore that the United Kingdom itself broached many substantive problems in its written and oral pleadings in this phase, and pointed out that those problems had been the subject of exhaustive exchanges before the Court; the United Kingdom Government thus implicitly acknowledged that the objection raised and the merits of the case were "closely interconnected".

The Court concludes that if it were to rule on that objection, it would therefore inevitably be ruling on the merits; in relying on the provisions of Article 79 of the Rules of Court, the Respondent has set in motion a procedure the precise aim of which is to prevent the Court from so doing.

The Court concludes from the foregoing that the objection of the United Kingdom according to which the Libyan claims have been rendered without object does not have "an exclusively preliminary character" within the meaning of that Article.

Having established its jurisdiction and concluded that the Application is admissible, the Court will be able to consider this objection when it reaches the merits of the case.

*

The Court finally specifies that, in accordance with Article 79, paragraph 7, of the Rules of Court, time-limits for the further proceedings shall be fixed subsequently by it.

*

Operative paragraph (para. 53)

"For these reasons,

THE COURT,

(1) *(a)* By thirteen votes to three,

Rejects the objection to jurisdiction raised by the United Kingdom on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judge* Oda; *Judge* ad hoc Sir Robert Jennings;

(b) By thirteen votes to three,

Finds that it has jurisdiction, on the basis of Article 14, paragraph 1, of the Montreal Convention of 23 September 1971, to hear the disputes between Libya and the United Kingdom as to the interpretation or application of the provisions of that Convention;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judge* Oda; *Judge* ad hoc Sir Robert Jennings;

(2) *(a)* By twelve votes to four,

Rejects the objection to admissibility derived by the United Kingdom from Security Council resolutions 748 (1992) and 883 (1993);

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Herczegh; *Judge* ad hoc Sir Robert Jennings;

(b) By twelve votes to four,

Finds that the Application filed by Libya on 3 March 1992 is admissible.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Herczegh; *Judge* ad hoc Sir Robert Jennings;

(3) By ten votes to six,

Declares that the objection raised by the United Kingdom according to which Security Council resolutions 748 (1992) and 883 (1993) have rendered the claims of Libya without object does not, in the circumstances of the case, have an exclusively preliminary character.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Guillaume, Herczegh, Fleischhauer; *Judge* ad hoc Sir Robert Jennings."

*

Joint declarations were appended to the Judgment of the Court by Judges Bedjaoui, Guillaume and Ranjeva (*I.C.J. Reports 1998*, pp. 32-45), by Judges Bedjaoui, Ranjeva and Koroma (*ibid.*, p. 46), and by Judges Guillaume and Fleischhauer (*ibid.*, pp. 47-50); Judge Herczegh also appended a declaration (*ibid.*, pp. 51-53); Judges Kooijmans and Rezek appended separate opinions (*ibid.*, pp. 55-60 and 61-63); President Schwebel, Judge Oda and Judge *ad hoc* Sir Robert Jennings appended dissenting opinions (*ibid.*, pp. 64-81, 82-98 and 99-113).

II. Summary of the Judgment in the Case of Libya *v.* United States of America

Review of the proceedings and submissions (paras. 1-15)

On 3 March 1992, Libya filed in the Registry of the Court an Application instituting proceedings against the United States in respect of a "dispute between Libya and the United States concerning the interpretation or application of the Montreal Convention" of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation (hereinafter called "the Montreal Convention"). The Application referred to the destruction, on 21 December 1988, over Lockerbie (Scotland), of the aircraft on Pan Am flight 103, and to charges brought by a Grand Jury of the United States in November 1991 against two Libyan nationals suspected of having caused a bomb to be placed aboard the aircraft, which bomb had exploded causing the aeroplane to crash. The Application invoked as the basis for jurisdiction Article 14, paragraph 1, of the Montreal Convention.

On 3 March 1992, immediately after the filing of its Application, Libya submitted a request for the indication of provisional measures under Article 41 of the Statute. By an Order dated 14 April 1992, the Court, after hearing the Parties, found that the circumstances of the case were not such as to require the exercise of its power to indicate provisional measures.

Libya filed a Memorial on the merits within the prescribed time-limit. In the Memorial Libya requests the Court to adjudge and declare:

> "*(a)* that the Montreal Convention is applicable to this dispute;
> *(b)* that Libya has fully complied with all of its obligations under the Montreal Convention and is justified in exercising the criminal jurisdiction provided for by that Convention;
> *(c)* that the United States has breached, and is continuing to breach, its legal obligations to Libya under Article 5, paragraphs 2 and 3, Article 7, Article 8, paragraph 3, and Article 11 of the Montreal Convention;
> *(d)* that the United States is under a legal obligation to respect Libya's right not to have the Convention set aside by means which would in any case be at variance with the principles of the United Nations Charter and with the mandatory rules of general international law prohibiting the use of force and the violation of the sovereignty, territorial integrity, sovereign equality and political independence of States."

Within the time-limit fixed for the filing of its Counter-Memorial, the United States filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application. Libya for its part filed a statement of its observations and submissions on the preliminary objections within the time-limit fixed by the Court. Hearings were held between 13 and 22 October 1997.

At the hearing the United States presented the following final submissions:

> "The United States of America requests that the Court uphold the objections of the United States to the jurisdiction of the Court and decline to entertain the case concerning ***Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)***."

The final submissions of Libya read as follows:

> "The Libyan Arab Jamahiriya requests the Court to adjudge and declare:
>
> - that the Preliminary Objections raised by . . . the United States must be rejected and that, as a consequence:
>   *(a)* the Court has jurisdiction to entertain the Application of Libya,
>   *(b)* that the Application is admissible;
> - that the Court should proceed to the merits."

Jurisdiction of the Court (paras. 16-38)

The Court first considers the objection raised by the United States to its jurisdiction.

Libya submits that the Court has jurisdiction on the basis of Article 14, paragraph 1, of the Montreal Convention, which provides that:

> "Any dispute between two or more Contracting States concerning

> the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

The Parties agree that the Montreal Convention is in force between them and that it was already in force both at the time of the destruction of the Pan Am aircraft over Lockerbie, on 21 December 1988, and at the time of filing of the Application, on 3 March 1992. However, the Respondent contests the jurisdiction of the Court because, in its submission, all the requisites laid down in Article 14, paragraph 1, of the Montreal Convention have not been complied with in the present case.

The United States contests the jurisdiction of the Court mainly on the basis of Libya's failure to show, firstly, that there exists a legal dispute between the Parties, and, secondly, that such dispute, if any, concerns the interpretation or application of the Montreal Convention and falls as a result within the terms of Article 14, paragraph 1, of that Convention. However, at the hearings, the United States also made reference, in passing, to the arguments it had advanced, in the provisional measures phase of the proceedings, as to whether the dispute that, in the opinion of Libya, exists between the Parties could be settled by negotiation, whether Libya had made a proper request for arbitration and whether it had respected the six-month period required by Article 14, paragraph 1, of the Convention.

After an examination of the history of the alleged dispute between the Parties the Court concludes that it could not be settled by negotiation or submitted to arbitration under the Montreal Convention, and the refusal of the Respondent to enter into arbitration to resolve that dispute absolved Libya from any obligation under Article 14, paragraph 1, of the Convention to observe a six-month period starting from the request for arbitration, before seising the Court.

Existence of a legal dispute of a general nature concerning the Convention (paras. 22-25)

In its Application and Memorial, Libya maintained that the Montreal Convention was the only instrument applicable to the destruction of the Pan Am aircraft over Lockerbie.

The United States does not deny that, as such, the facts of the case could fall within the terms of the Montreal Convention. However, it emphasizes that, in the present case, from the time Libya invoked the Montreal Convention, the United States has claimed that it was not relevant because it was not a question of "bilateral differences" but one of "a threat to international peace and security resulting from State-sponsored terrorism".

The Court concludes that consequently, the Parties differ on the question whether the destruction of the Pan Am aircraft over Lockerbie is governed by the Montreal Convention. A dispute thus exists between the Parties as to the legal régime applicable to this event. Such a dispute, in the view of the Court, concerns the interpretation and application of the Montreal Convention, and, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Existence of a specific dispute concerning Article 7 of the Convention (paras. 25-28)

The Court finds that in view of the positions put forward by the Parties with respect to the rights and obligations which Articles 1, 5, 6, 7 and 8 of the Convention would entail for them that there exists between them not only a dispute of a general nature, as defined above, but also a specific dispute which concerns the interpretation and application of Article 7 – read in conjunction with Article 1, Article 5, Article 6 and Article 8 – of the Convention, and which, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Article 7 is worded in the following terms:

> "The Contracting State in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State."

Existence of a specific dispute concerning Article 11 of the Convention (paras. 29-32)

Furthermore, having taken account of the positions of the Parties as to the duties imposed by Article 11 of the Montreal Convention, the Court concludes that there equally exists between them a dispute which concerns the interpretation and application of that provision, and which, in accordance with Article 14, paragraph 1, of the Convention, falls to be decided by the Court.

Article 11 is worded as follows:

> "1. Contracting States shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences. The law of the State requested shall apply in all cases.
>
> 2. The provisions of paragraph 1 of this Article shall not affect obligations under any other treaty, bilateral or multilateral, which governs or will govern, in whole or in part, mutual assistance in criminal matters."

Lawfulness of the actions of the Respondent (paras. 33-35)

With respect to the last submission of Libya (see above, submission *(d)* of the Memorial) the United States maintains that it is not for the Court, on the basis of Article 14, paragraph 1, of the Montreal Convention, to decide on the lawfulness of actions which are in any event in conformity with international law, and which were instituted by the Respondent to secure the surrender of the two alleged offenders. It concludes from this that the Court lacks jurisdiction to hear the submissions presented on this point by Libya.

The Court points out that it cannot uphold the line of argument thus formulated. Indeed, it is for the Court to decide, on the basis of Article 14, paragraph 1, of the Montreal Convention, on the lawfulness of the actions criticized by Libya, in so far as those actions would be contrary to the provisions of the Montreal Convention.

Effect of the resolution of the Security Council (paras. 36-37)

In the present case, the United States has contended, however, that even if the Montreal Convention did confer on Libya the rights it claims, those rights could not be exercised in this case because they were superseded by Security Council resolutions 748 (1992) and 883 (1993) which, by virtue of Articles 25 and 103 of the United Nations Charter, have priority over all rights and obligations arising out of the Montreal Convention. The Respondent has also argued that, because of the adoption of those resolutions, the only dispute which existed from that point on was between Libya and the Security Council; this, clearly, would not be a dispute falling within the terms of Article 14, paragraph 1, of the Montreal Convention and thus not one which the Court could entertain.

The Court finds that it cannot uphold this line of argument. Security Council resolutions 748 (1992) and 883 (1993) were in fact adopted after the filing of the Application on 3 March 1992. In accordance with its established jurisprudence, if the Court had jurisdiction on that date, it continues to do so; the subsequent coming into existence of the above-mentioned resolutions cannot affect its jurisdiction once established.

In the light of the foregoing, the Court concludes that the objection to jurisdiction raised by the United States on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention must be rejected, and that the Court has jurisdiction to hear the disputes between Libya and the United States as to the interpretation or application of the provisions of that Convention.

Admissibility of the Libyan Application (paras. 39-44)

The Court will now turn to consider the objection of the United States according to which the Libyan Application is not admissible.

The United States emphasizes that the measures which Libya opposes are those taken by the Security Council under resolutions 731 (1992), 748 (1992) and 883 (1993). According to the United States, by seising the Court, Libya was endeavouring to "undo the Council's actions". The United States argues that, even if Libya could make valid claims under the Montreal Convention, these are "superseded" by the relevant decisions of the Security Council under Chapter VII of the Charter, which impose different obligations. The said decisions thus establish the rules governing the dispute between Libya and the United States. Those rules – and not the Montreal Convention – define the obligations of the Parties; and the claims of Libya based on the Convention are therefore inadmissible.

For its part, Libya argues that it is clear from the actual terms of resolutions 731 (1992), 748 (1992) and 883 (1993) that the Security Council has never required it to surrender its nationals to the United States or the United Kingdom; it stated at the hearing that this remained "Libya's principal argument". It added that the Court must interpret those resolutions "in accordance with the Charter, which determined their validity", and that the Charter prohibited the Council from requiring Libya to hand over its nationals to the United States or the United Kingdom. Libya concludes that its Application is admissible "as the Court can usefully rule on the interpretation and application of the Montreal Convention ... independently of the legal effects of resolutions 748 (1992) and 883 (1993)". Libya furthermore draws the Court's attention to the principle that "[t]he critical date for determining the admissibility of an application is the date on which it is filed".

In the view of the Court, this last submission of Libya must be upheld. The date, 3 March 1992, on which Libya filed its Application, is in fact the only relevant date for determining the admissibility of the Application. Security Council resolutions 748 (1992) and 883 (1993) cannot be taken into consideration in this regard, since they were adopted at a later date. As to Security Council resolution 731 (1992), adopted before the filing of the Application, it could not form a legal impediment to the admissibility of the latter because it was a mere recommendation without binding effect, as was recognized moreover by the United States. Consequently, Libya's Application cannot be held inadmissible on these grounds.

In the light of the foregoing, the Court concludes that the objection to admissibility derived by the United States from Security Council resolutions 748 (1992) and 883 (1993) must be rejected, and that Libya's Application is admissible.

Objection that the Applicant's claims are without object (paras. 45-50)

The Court then considers the third objection raised by the United States. According to that objection, Libya's claims have become moot because Security Council resolutions 748 (1992) and 883 (1993) have rendered them without object; any judgment which the Court might deliver on the said claims would thenceforth be devoid of practical purpose.

The Court notes that it already acknowledged, on several occasions in the past, that events subsequent to the filing of an application may "render an application without object" and "therefore the Court is not called upon to give a decision thereon". Thus formulated, the Respondent's objection is that there is no ground for proceeding to judgment on the merits, which objection must be examined within the framework of this jurisprudence.

The Court must satisfy itself that such an objection does indeed fall within the provisions of Article 79 of the Rules, relied upon by the Respondent. In paragraph 1, this Article refers to "Any objection . . . to the jurisdiction of the Court or to the admissibility of the application, or *other objection*" (emphasis added); its field of application *ratione materiae* is thus not limited solely to objections regarding jurisdiction and admissibility. However, if it is to be covered by Article 79, an objection must also possess a "preliminary" character. Paragraph 1 of Article 79 of the Rules of Court characterizes as "preliminary" an objection "the decision upon which is requested before any further proceedings". The Court considers in this respect that in so far as the purpose of the objection raised by the United States that there is no ground for proceeding to judgment on the merits is, effectively, to prevent, *in limine*, any consideration of the case on the merits, so that its "effect [would] be, if the objection is upheld, to interrupt further proceedings in the case", and "it [would] therefore be appropriate for the Court to deal with [it] before enquiring into the merits", this objection possesses a preliminary character and does indeed fall within the provisions of Article 79 of the Rules of Court.

Libya does not dispute any of these points. What Libya contends is that this objection – like the objection of inadmissibility raised by the United States, and for the same reasons – falls within the category of those which Article 79, paragraph 7, of the Rules of Court characterizes as objections "not possess[ing], in the circumstances of the case, an exclusively preliminary character".

On the contrary, the United States considers that the objection concerned possesses an "exclusively preliminary character" within the meaning of that provision. It contends, in particular, in support of this argument, that this objection does not require "the resolution of disputed facts or the consideration of evidence".

The Court finds that thus it is solely on the question of the "exclusively" or "non-exclusively" preliminary character of the objection under consideration that the Parties are divided and on which the Court must now make a determination; and it concludes that it must therefore ascertain whether, in the present case, the United States objection considered here contains "both preliminary aspects and other aspects relating to the merits" or not.

The Court observes that that objection relates to many aspects of the dispute. By maintaining that Security Council resolutions 748 (1992) and 883 (1993) have rendered the Libyan claims without object, the United States seeks to obtain from the Court a decision not to proceed to judgment on the merits, which would immediately terminate the proceedings. However, by requesting such a decision, the United States is requesting, in reality, at least two others which the decision not to proceed to judgment on the merits would necessarily postulate: on the one hand a decision establishing that the rights claimed by Libya under the Montreal Convention are incompatible with its obligations under the Security Council resolutions; and, on the other hand, a decision that those obligations prevail over those rights by virtue of Articles 25 and 103 of the Charter.

The Court therefore has no doubt that Libya's rights on the merits would not only be affected by a decision not to proceed to judgment on the merits, at this stage in the proceedings, but would constitute, in many respects, the very subject-matter of that decision. The objection raised by the United States on that point has the character of a defence on the merits.

The Court notes furthermore that the United States itself broached many substantive problems in its written and oral pleadings in this phase, and pointed out that those problems had been the subject of exhaustive exchanges before the Court; the United States Government thus implicitly acknowledged that the objection raised and the merits of the case were "closely interconnected".

The Court concludes that if it were to rule on that objection, it would therefore inevitably be ruling on the merits; in relying on the provisions of Article 79 of the Rules of Court, the Respondent has set in motion a procedure the precise aim of which is to prevent the Court from so doing.

The Court concludes from the foregoing that the objection of the United States according to which the Libyan claims have become moot as having been rendered without object does not have "an exclusively preliminary character" within the meaning of that Article.

Having established its jurisdiction and concluded that the Application is admissible, the Court will be able to consider this objection when it reaches the merits of the case.

*

Lastly, the United States requested the Court, in the alternative, in the event that, notwithstanding the United States' objections, it should declare that it has jurisdiction and deem the Application admissible, to "resolve the case in substance now" by deciding, as a preliminary matter, that the relief sought by Libya is precluded.

As the Court has already indicated, it is the Respondent which sought to rely, in this case, on the provisions of Article 79 of the Rules. By raising preliminary objections, it has made a procedural choice the effect of which, according to the express terms of Article 79, paragraph 3, is to suspend the proceedings on the merits. The Court cannot therefore uphold the claim of the United States.

*

The Court finally specifies that in accordance with Article 79, paragraph 7, of the Rules of Court, time-limits for the further proceedings shall be fixed subsequently by it.

*

Operative paragraph (para. 53)

"For these reasons,

THE COURT,

(1) *(a)* By thirteen votes to two,

Rejects the objection to jurisdiction raised by the United States on the basis of the alleged absence of a dispute between the Parties concerning the interpretation or application of the Montreal Convention of 23 September 1971;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judge* Oda;

(b) By thirteen votes to two,

Finds that it has jurisdiction, on the basis of Article 14, paragraph 1, of the Montreal Convention of 23 September 1971, to hear the disputes between Libya and the United States as to the interpretation or application of the provisions of that Convention;

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judge* Oda;

(2) *(a)* By twelve votes to three,

Rejects the objection to admissibility derived by the United States from Security Council resolutions 748 (1992) and 883 (1993);

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Herczegh;

(b) By twelve votes to three,

Finds that the Application filed by Libya on 3 March 1992 is admissible.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges*

Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Herczegh;

(3) By ten votes to five,

Declares that the objection raised by the United States according to which the claims of Libya became moot because Security Council resolutions 748 (1992) and 883 (1993) rendered them without object, does not, in the circumstances of the case, have an exclusively preliminary character.

IN FAVOUR: *Vice-President* Weeramantry, *Acting President*; *Judges* Bedjaoui, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc El-Kosheri;

AGAINST: *President* Schwebel; *Judges* Oda, Guillaume, Herczegh, Fleischhauer."

*

Joint declarations were appended to the Judgment of the Court by Judges Bedjaoui, Ranjeva and Koroma (*I.C.J. Reports 1998*, p. 138) and by Judges Guillaume and Fleischhauer (*ibid.*, pp. 139-142); Judge Herczegh also appended a declaration (*ibid.*, p. 143); Judges Kooijmans and Rezek appended separate opinions (*ibid.*, pp. 144-141 and 152-154); President Schwebel and Judge Oda appended dissenting opinions (*ibid.*, pp. 155-172 and 173-188).

*

By Orders of 30 March 1998 (*I.C.J. Reports 1998*, pp. 237 and 240), the Court fixed 30 December 1998 as the time-limit for the filing of the Counter-Memorials of the United Kingdom and the United States of America respectively.

4. Oil Platforms (Islamic Republic of Iran v. *United States of America)*

On 2 November 1992 the Islamic Republic of Iran filed in the Registry of the Court an Application instituting proceedings against the United States of America with respect to the destruction of Iranian oil platforms.

The Islamic Republic founded the jurisdiction of the Court for the purposes of these proceedings on Article XXI (2) of the Treaty of Amity, Economic Relations and Consular Rights between the United States of America and Iran, signed at Tehran on 15 August 1955.

In its Application Iran alleged that the destruction caused by several warships of the United States Navy, on 19 October 1987 and 18 April 1988, to three offshore oil production complexes, owned and operated for commercial purposes by the National Iranian Oil Company, constituted a fundamental breach of various provisions of the Treaty of Amity and of international law. In this connection Iran referred in particular to Articles I and X(1) of the Treaty which provide respectively: "There shall be firm and enduring peace and sincere friendship between the United States of America and Iran", and "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation".

The Islamic Republic accordingly requested the Court to adjudge and declare as follows:

> "*(a)* that the Court has jurisdiction under the Treaty of Amity to entertain the dispute and to rule upon the claims submitted by the Islamic Republic;
>
> *(b)* that in attacking and destroying the oil platforms referred to in the Application on 19 October 1987 and 18 April 1988, the United States breached its obligations to the Islamic Republic, *inter alia*, under Article I and X (1) of the Treaty of Amity and international law;
>
> *(c)* that in adopting a patently hostile and threatening attitude towards the Islamic Republic that culminated in the attack and destruction of the Iranian oil platforms, the United States breached the object and purpose of the Treaty of Amity, including Articles I and X(1), and international law;
>
> *(d)* that the United States is under an obligation to make reparations to the Islamic Republic for the violation of its international legal obligations in an amount to be determined by the Court at a subsequent stage of the proceedings. The Islamic Republic reserves the right to introduce and present to the Court in due course a precise evaluation of the reparations owed by the United States; and
>
> *(e)* any other remedy the Court may deem appropriate."

By an Order of 4 December 1992 (*I.C.J. Reports 1992*, p. 763), the President of the Court, taking into account an agreement of the Parties, fixed 31 May 1993 as the time-limit for the filing of the Memorial of Iran and 30 November 1993 for the filing of the Counter-Memorial of the United States.

By an Order of 3 June 1993 (*I.C.J. Reports 1993*, p. 35), the President of the Court, upon the request of Iran and after the United States had indicated that it had no objection, extended those time-limits to 8 June and 16 December 1993, respectively. The Memorial was filed within the prescribed time-limit.

The Islamic Republic of Iran chose Mr. François Rigaux to sit as judge *ad hoc*.

On 16 December 1993, within the extended time-limit for filing the Counter-Memorial, the United States of America filed certain preliminary objections to the Court's jurisdiction. In accordance with the terms of

Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended; by an Order of 18 January 1994 (*I.C.J. Reports 1994*, p. 3), the Court fixed 1 July 1994 as the time-limit within which Iran could present a written statement of its observations and submissions on the objections. That written statement was filed within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objection filed by the United States of America were held between 16 and 24 September 1996.

At a public sitting held on 12 December 1996, the Court delivered its Judgment on the preliminary objection raised by the United States (*I.C.J. Reports 1996*, p. 803), rejecting that objection and finding that it had jurisdiction, on the basis of Article XXI, paragraph 2, of the Treaty of 1955, to entertain the claims made by Iran under Article X, paragraph 1, of that Treaty.

Judges Shahabuddeen, Ranjeva, Higgins and Parra-Aranguren and Judge *ad hoc* Rigaux appended separate opinions to the Judgment of the Court (*I.C.J. Reports 1996*, pp. 822-841, 842-846, 847-861, 862-863 and 864-873); Vice-President Schwebel and Judge Oda appended dissenting opinions (*ibid.*, pp. 874-889 and 890-900).

By an Order of 16 December 1996 (*I.C.J. Reports 1996*, p. 902), the President of the Court, taking into account agreement of the Parties, fixed 23 June 1997 as the time-limit for the filing of the Counter-Memorial of the United States of America. Within the time-limit thus fixed the United States filed the Counter-Memorial and a Counter-Claim, requesting the Court to adjudge and declare:

> "1. That in attacking vessels, laying mines in the Gulf and otherwise engaging in military actions in 1987-1988 that were dangerous and detrimental to maritime commerce, the Islamic Republic of Iran breached its obligations to the United States under Article X of the 1955 Treaty, and
>
> 2. That the Islamic Republic of Iran is accordingly under an obligation to make full reparation to the United States for violating the 1955 Treaty in a form and amount to be determined by the Court at a subsequent stage of the proceedings."

By a letter of 2 October 1997 Iran informed the Court that it had "serious objections to the admissibility of the United States counter-claim", taking the position that the counter-claim as formulated by the United States did not meet the requirements of Article 80, paragraph 1, of the Rules of Court.

At a meeting which the Vice-President of the Court, Acting President, held on 17 October 1997 with the Agents of the Parties it was agreed that their respective Governments would submit written observations on the question of the admissibility of the United States counter-claim.

After Iran and the United States, in communications dated 18 November and 18 December 1997 respectively, had submitted these written observations the Court, by an Order of 10 March 1998 (*I.C.J. Reports 1998*, p. 190), found that the counter-claim presented by the United States in its Counter-Memorial was admissible as such and formed part of the proceedings. It further directed Iran to submit a Reply and the United States to submit a Rejoinder, fixing the time-limits for those pleadings at 10 September 1998 and 23 November 1999 respectively.

Judges Oda and Higgins appended separate opinions to the Order (*I.C.J. Reports 1998*, pp. 208-216 and 217-223); Judge *ad hoc* Rigaux appended a dissenting opinion (*ibid.*, pp. 224-235).

By an Order of 26 May 1998 (*I.C.J. Reports 1998*, p. 269), the Vice-President of the Court, Acting President, extended, at the request of Iran and taking into account the views expressed by the United States, the time-limits for Iran's Reply and the United States Rejoinder to 10 December 1998 and 23 May 2000 respectively.

5. Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia)*

On 20 March 1993, the Republic of Bosnia and Herzegovina filed in the Registry of the Court an Application instituting proceedings against Yugoslavia "for violating the Genocide Convention".

The Application referred to several provisions of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, as well as of the Charter of the United Nations, which Bosnia and Herzegovina alleged were violated by Yugoslavia. It also referred in this respect to the four Geneva Conventions of 1949 and their Additional Protocol I of 1977, to the Hague Regulations on Land Warfare of 1907, and to the Universal Declaration of Human Rights.

The Application referred to Article IX of the Genocide Convention as the basis for the jurisdiction of the Court.

In the Application, Bosnia and Herzegovina requested the Court to adjudge and declare:

> "*(a)* that Yugoslavia (Serbia and Montenegro) has breached, and is continuing to breach, its legal obligations toward the People and State of Bosnia and Herzegovina under Articles I, II *(a)*, II *(b)*, II *(c)*, II *(d)*, III *(a)*, III *(b)*, III *(c)*, III *(d)*, III *(e)*, IV and V of the Genocide Convention;
>
> *(b)* that Yugoslavia (Serbia and Montenegro) has violated and is continuing to violate its legal obligations toward the People and State of Bosnia and Herzegovina under the four Geneva Conventions of 1949, their Additional Protocol I of 1977, the customary international laws of war including the Hague Regulations on Land Warfare of 1907, and other fundamental principles of international humanitarian law;
>
> *(c)* that Yugoslavia (Serbia and Montenegro) has violated and continues to violate Articles 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12,

13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26 and 28 of the Universal Declaration of Human Rights with respect to the citizens of Bosnia and Herzegovina;

(d) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has killed, murdered, wounded, raped, robbed, tortured, kidnapped, illegally detained, and exterminated the citizens of Bosnia and Herzegovina, and is continuing to do so;

(e) that in its treatment of the citizens of Bosnia and Herzegovina, Yugoslavia (Serbia and Montenegro) has violated, and is continuing to violate, its solemn obligations under Articles 1 (3), 55 and 56 of the United Nations Charter;

(f) that Yugoslavia (Serbia and Montenegro) has used and is continuing to use force and the threat of force against Bosnia and Herzegovina in violation of Articles 2 (1), 2 (2), 2 (3), 2 (4), and 33 (1), of the United Nations Charter;

(g) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has used and is using force and the threat of force against Bosnia and Herzegovina;

(h) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has violated and is violating the sovereignty of Bosnia and Herzegovina by:

- armed attacks against Bosnia and Herzegovina by air and land;
- aerial trespass into Bosnian airspace;
- efforts by direct and indirect means to coerce and intimidate the Government of Bosnia and Herzegovina;

(i) that Yugoslavia (Serbia and Montenegro), in breach of its obligations under general and customary international law, has intervened and is intervening in the internal affairs of Bosnia and Herzegovina;

(j) that Yugoslavia (Serbia and Montenegro), in recruiting, training, arming, equipping, financing, supplying and otherwise encouraging, supporting, aiding, and directing military and paramilitary actions in and against Bosnia and Herzegovina by means of its agents and surrogates, has violated and is violating its express charter and treaty obligations to Bosnia and Herzegovina and, in particular, its charter and treaty obligations under Article 2 (4) of the United Nations Charter, as well as its obligations under general and customary international law;

(k) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right to defend Itself and its People under United Nations Charter Article 51 and customary international law, including by means of immediately obtaining

military weapons, equipment, supplies and troops from other States;

(l) that under the circumstances set forth above, Bosnia and Herzegovina has the sovereign right under United Nations Charter Article 51 and customary international law to request the immediate assistance of any State to come to its defence, including by military means (weapons, equipment, supplies, troops, etc.);

(m) that Security Council resolution 713 (1991), imposing a weapons embargo upon the former Yugoslavia, must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(n) that all subsequent Security Council resolutions that refer to or reaffirm resolution 713 (1991) must be construed in a manner that shall not impair the inherent right of individual or collective self-defence of Bosnia and Herzegovina under the terms of United Nations Charter Article 51 and the rules of customary international law;

(o) that Security Council resolution 713 (1991) and all subsequent Security Council resolutions referring thereto or reaffirming thereof must not be construed to impose an arms embargo upon Bosnia and Herzegovina, as required by Articles 24 (1) and 51 of the United Nations Charter and in accordance with the customary doctrine of *ultra vires*;

(p) that pursuant to the right of collective self-defence recognized by United Nations Charter Article 51, all other State parties to the Charter have the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing It with weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.);

(q) that Yugoslavia (Serbia and Montenegro) and its agents and surrogates are under an obligation to cease and desist immediately from its breaches of the foregoing legal obligations, and is under a particular duty to cease and desist immediately:

- from its systematic practice of so-called 'ethnic cleansing' of the citizens and sovereign territory of Bosnia and Herzegovina;
- from the murder, summary execution, torture, rape, kidnapping, mayhem, wounding, physical and mental abuse, and detention of the citizens of Bosnia and Herzegovina;
- from the wanton devastation of villages, towns, districts, cities, and religious institutions in Bosnia and Herzegovina;
- from the bombardment of civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;

- from continuing the siege of any civilian population centres in Bosnia and Herzegovina, and especially its capital, Sarajevo;
- from the starvation of the civilian population in Bosnia and Herzegovina;
- from the interruption of, interference with, or harassment of humanitarian relief supplies to the citizens of Bosnia and Herzegovina by the international community;
- from all use of force – whether direct or indirect, overt or covert – against Bosnia and Herzegovina, and from all threats of force against Bosnia and Herzegovina;
- from all violations of the sovereignty, territorial integrity or political independence of Bosnia and Herzegovina, including all intervention, direct or indirect, in the internal affairs of Bosnia and Herzegovina;
- from all support of any kind – including the provision of training, arms, ammunition, finances, supplies, assistance, direction or any other form of support – to any nation, group, organization, movement or individual engaged or planning to engage in military or paramilitary actions in or against Bosnia and Herzegovina.

(r) that Yugoslavia (Serbia and Montenegro) has an obligation to pay Bosnia and Herzegovina, in its own right and as *parens patriae* for its citizens, reparations for damages to persons and property as well as to the Bosnian economy and environment caused by the foregoing violations of international law in a sum to be determined by the Court. Bosnia and Herzegovina reserves the right to introduce to the Court a precise evaluation of the damages caused by Yugoslavia (Serbia and Montenegro)."

On the same day, the Government of Bosnia and Herzegovina, stating that:

> "The overriding objective of this Request is to prevent further loss of human life in Bosnia and Herzegovina",

and that:

> "The very lives, well-being, health, safety, physical, mental and bodily integrity, homes, property and personal possessions of hundreds of thousands of people in Bosnia and Herzegovina are right now at stake, hanging in the balance, awaiting the order of this Court",

filed a request for the indication of provisional measures under Article 41 of the Statute of the Court.

The provisional measures requested were as follows:

> "1. That Yugoslavia (Serbia and Montenegro), together with its agents and surrogates in Bosnia and elsewhere, must immediately

> cease and desist from all acts of genocide and genocidal acts against the People and State of Bosnia and Herzegovina, including but not limited to murder; summary executions; torture; rape; mayhem; so-called 'ethnic cleansing'; the wanton devastation of villages, towns, districts and cities; the siege of villages, towns, districts and cities; the starvation of the civilian population; the interruption of, interference with, or harassment of humanitarian relief supplies to the civilian population by the international community; the bombardment of civilian population centres; and the detention of civilians in concentration camps or otherwise.
>
> 2. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, militia or individual engaged in or planning to engage in military or paramilitary activities in or against the People, State and Government of Bosnia and Herzegovina.
>
> 3. That Yugoslavia (Serbia and Montenegro) itself must immediately cease and desist from any and all types of military or paramilitary activities by its own officials, agents, surrogates, or forces in or against the People, State and Government of Bosnia and Herzegovina, and from any other use or threat of force in its relations with Bosnia and Herzegovina.
>
> 4. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to seek and receive support from other States in order to defend Itself and its People, including by means of immediately obtaining military weapons, equipment and supplies.
>
> 5. That under the current circumstances, the Government of Bosnia and Herzegovina has the right to request the immediate assistance of any State to come to its defence, including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, airpeople, etc.).
>
> 6. That under the current circumstances, any State has the right to come to the immediate defence of Bosnia and Herzegovina – at its request – including by means of immediately providing weapons, military equipment and supplies, and armed forces (soldiers, sailors, and airpeople, etc.)."

Hearings on the request for the indication of provisional measures were held on 1 and 2 April 1993. At two public sittings the Court heard the oral observations of each of the Parties. A Member of the Court put a question to both Agents.

At a public sitting held on 8 April 1993, the President of the Court read out the Order on the request for provisional measures made by Bosnia and Herzegovina (*I.C.J. Reports 1993*, p. 3) by which the

Court indicated, pending its final decision in the proceedings instituted on 20 March 1993 by the Republic of Bosnia and Herzegovina against the Federal Republic of Yugoslavia, the following provisional measures:

(a) The Government of the Federal Republic of Yugoslavia should immediately, in pursuance of its undertaking in the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide: and the Government of the Federal Republic of Yugoslavia should in particular ensure that any military, paramilitary or irregular armed units which may be directed or supported by it, as well as any organizations and persons which may be subject to its control, direction or influence, do not commit any acts of genocide, of conspiracy to commit genocide, of direct and public incitement to commit genocide, or of complicity in genocide, whether directed against the Muslim population of Bosnia and Herzegovina or against any other national, ethnical, racial or religious group.

(b) The Government of the Federal Republic of Yugoslavia and the Government of the Republic of Bosnia and Herzegovina should not take any action and should ensure that no action is taken which may aggravate or extend the existing dispute over the prevention or punishment of the crime of genocide, or render it more difficult of solution.

Judge Tarassov appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 26-27).

By an Order of 16 April 1993 (*ibid.*, p. 29), the President of the Court, taking into account an agreement of the Parties, fixed 15 October 1993 as the time-limit for the filing of the Memorial of Bosnia and Herzegovina and 15 April 1994 for the filing of the Counter-Memorial of Yugoslavia.

Bosnia and Herzegovina chose Mr. Elihu Lauterpacht and Yugoslavia Mr. Milenko Kreća to sit as judges *ad hoc*.

On 27 July 1993 the Republic of Bosnia and Herzegovina filed a second request for the indication of provisional measures, stating that:

> "This extraordinary step is being taken because the respondent has violated each and every one of the three measures of protection on behalf of Bosnia and Herzegovina that were indicated by this Court on 8 April 1993, to the grave detriment of both the People and State of Bosnia and Herzegovina. In addition to continuing its campaign of genocide against the Bosnian People – whether Muslim, Christian, Jew, Croat or Serb – the Respondent is now planning, preparing, conspiring to, proposing, and negotiating the partition, dismemberment, annexation and incorporation of the sovereign State of Bosnia and Herzegovina – a Member of the United Nations Organization – by means of genocide."

The provisional measures then requested were as follows:

"1. That Yugoslavia (Serbia and Montenegro) must immediately cease and desist from providing, directly or indirectly, any type of support – including training, weapons, arms, ammunition, supplies, assistance, finances, direction or any other form of support – to any nation, group, organization, movement, military, militia or paramilitary force, irregular armed unit, or individual in Bosnia and Herzegovina for any reason or purpose whatsoever.

2. That Yugoslavia (Serbia and Montenegro) and all of its public officials – including and especially the President of Serbia, Mr. Slobodan Milosevic – must immediately cease and desist from any and all efforts, plans, plots, schemes, proposals or negotiations to partition, dismember, annex or incorporate the sovereign territory of Bosnia and Herzegovina.

3. That the annexation or incorporation of any sovereign territory of the Republic of Bosnia and Herzegovina by Yugoslavia (Serbia and Montenegro) by any means or for any reason shall be deemed illegal, null, and void *ab initio*.

4. That the Government of Bosnia and Herzegovina must have the means 'to prevent' the commission of acts of genocide against its own People as required by Article I of the Genocide Convention.

5. That all Contracting Parties to the Genocide Convention are obliged by Article I thereof 'to prevent' the commission of acts of genocide against the People and State of Bosnia and Herzegovina.

6. That the Government of Bosnia and Herzegovina must have the means to defend the People and State of Bosnia and Herzegovina from acts of genocide and partition and dismemberment by means of genocide.

7. That all Contracting Parties to the Genocide Convention have the obligation thereunder 'to prevent' acts of genocide, and partition and dismemberment by means of genocide, against the People and State of Bosnia and Herzegovina.

8. That in order to fulfil its obligations under the Genocide Convention under the current circumstances, the Government of Bosnia and Herzegovina must have the ability to obtain military weapons, equipment, and supplies from other Contracting Parties.

9. That in order to fulfil their obligations under the Genocide Convention under the current circumstances, all Contracting Parties thereto must have the ability to provide military weapons, equipment, supplies and armed forces (soldiers, sailors, airpeople) to the Government of Bosnia and Herzegovina at its request.

10. That United Nations Peacekeeping Forces in Bosnia and Herzegovina (i.e., UNPROFOR) must do all in their power to ensure the flow of humanitarian relief supplies to the Bosnian People through the Bosnian city of Tuzla."

On 5 August 1993 the President of the Court addressed a message to both Parties, referring to Article 74, paragraph 4, of the Rules of Court, which enables him, pending the meeting of the Court,

> "to call upon the parties to act in such a way as will enable any order the Court may make on the request for provisional measures to have its appropriate effects",

and stating:

> "I do now call upon the Parties so to act, and I stress that the provisional measures already indicated in the Order which the Court made after hearing the Parties, on 8 April 1993, still apply.
>
> Accordingly I call upon the Parties to take renewed note of the Court's Order and to take all and any measures that may be within their power to prevent any commission, continuance, or encouragement of the heinous international crime of genocide."

On 10 August 1993 Yugoslavia filed a request, dated 9 August 1993, for the indication of provisional measures, whereby it requested the Court to indicate the following provisional measure:

> "The Government of the so-called Republic of Bosnia and Herzegovina should immediately, in pursuance of its obligation under the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, take all measures within its power to prevent commission of the crime of genocide against the Serb ethnic group."

The hearings concerning the further requests for the indication of provisional measures were held on 25 and 26 August 1993. In the course of two public sittings the Court heard statements from each of the Parties. Judges put questions to both Parties.

At a public sitting held on 13 September 1993, the President of the Court read out the Order concerning the further requests for the indication of provisional measures (*I.C.J. Reports 1993*, p. 325), by which the Court reaffirmed the provisional measures indicated in its order of 8 April 1993, which measures, the Court stated, should be immediately and effectively implemented.

Judge Oda appended a declaration to the Order (*I.C.J. Reports 1993*, pp. 351-352); Judges Shahabuddeen, Weeramantry and Ajibola and Judge *ad hoc* Lauterpacht appended separate opinions (*ibid.*, pp. 353-369, 370-389, 390-406 and 407-448); and Judge Tarassov and Judge *ad hoc* Kreća appended dissenting opinions (*ibid.*, pp. 449-452 and 453-465).

By an Order of 7 October 1993 (*I.C.J. Reports 1993*, p. 470), the Vice-President of the Court, at the request of Bosnia and Herzegovina and after Yugoslavia had expressed its opinion, extended to 15 April 1994 the time-limit for the filing of the Memorial of Bosnia and Herzegovina, and to 15 April 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Memorial was filed within the prescribed time-limit.

By an Order of 21 March 1995 (*I.C.J. Reports 1995*, p. 80), the President of the Court, upon a request of the Agent of Yugoslavia and after the views of Bosnia and Herzegovina had been ascertained, extended to 30 June 1995 the time-limit for the filing of the Counter-Memorial of Yugoslavia.

On 26 June 1995, within the extended time-limit for the filing of its Counter-Memorial, Yugoslavia filed certain preliminary objections. The objections related, firstly, to the admissibility of the Application and, secondly, to the jurisdiction of the Court to deal with the case.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provision of that Article.

By an Order of 14 July 1995 (*I.C.J. Reports 1995*, p. 279), the President of the Court, taking into account the views expressed by the Parties, fixed 14 November 1995 as the time-limit within which the Republic of Bosnia and Herzegovina might present a written statement of its observations and submissions on the preliminary objections raised by the Federal Republic of Yugoslavia. Bosnia and Herzegovina filed such a statement within the prescribed time-limit.

Public sittings to hear the oral arguments of the Parties on the preliminary objection raised by Yugoslavia were held between 29 April and 3 May 1996.

At a public sitting held on 11 July 1996, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1996*, p. 595), by which it rejected the objections raised by Yugoslavia, finding that, on the basis of Article XI of the Convention on the Prevention and Punishment of the Crime of Genocide, it had jurisdiction; dismissed the additional basis of jurisdiction invoked by Bosnia and Herzegovina and found that the Application was admissible.

Judge Oda appended a declaration to the Judgment of the Court (*ibid.*, pp. 625-630); Judges Shi and Vereshchetin appended a joint declaration (*ibid.*, pp. 631-632); Judge *ad hoc* Lauterpacht also appended a declaration (*ibid.*, p. 633); Judges Shahabuddeen, Weeramantry and Parra-Aranguren appended separate opinions to the Judgment (*ibid.*, pp. 634-639, 640-655 and 656-657); Judge *ad hoc* Kreća appended a dissenting opinion (*ibid.*, pp. 658-795).

By an Order of 23 July 1996 (*I.C.J. Reports 1996*, p. 797), the President of the Court, taking into account the views expressed by the Parties, fixed 23 July 1997 as the time-limit for the filing of the Counter-Memorial of Yugoslavia. The Counter-Memorial was filed within the prescribed time-limit. It included counter-claims, by which Yugoslavia requested the Court to adjudge and declare:

> "3. Bosnia and Herzegovina is responsible for the acts of genocide committed against the Serbs in Bosnia and Herzegovina and for

other violations of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:

- because it has incited acts of genocide by the 'Islamic Declaration', and in particular by the position contained in it that 'there can be no peace or coexistence between "Islamic faith" and "non-Islamic" social and political institutions';
- because it has incited acts of genocide by the *Novi Vox*, paper of the Muslim youth, and in particular by the verses of a 'Patriotic Song' which reads as follows:

  'Dear mother, I'm going to plant willows,
  We'll hang Serbs from them.
  Dear mother, I'm going to sharpen knives,
  We'll soon fill pits again';
- because it has incited acts of genocide by the paper *Zmaj od Bosne*, and in particular by the sentence in an article published in it that 'Each Muslim must name a Serb and take oath to kill him';
- because public calls for the execution of Serbs were broadcast on radio 'Hajat' and thereby acts of genocide were incited;
- because the armed forces of Bosnia and Herzegovina, as well as other organs of Bosnia and Herzegovina have committed acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs in Bosnia and Herzegovina, which have been stated in Chapter Seven of the Counter-Memorial;
- because Bosnia and Herzegovina has not prevented the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, against the Serbs on its territory, which have been stated in Chapter Seven of the Counter-Memorial.

4. Bosnia and Herzegovina has the obligation to punish the persons held responsible for the acts of genocide and other acts prohibited by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

5. Bosnia and Herzegovina is bound to take necessary measures so that the said acts would not be repeated in the future.

6. Bosnia and Herzegovina is bound to eliminate all consequences of the violation of the obligations established by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide and provide adequate compensation."

By a letter of 28 July 1997 Bosnia and Herzegovina informed the Court that "the Applicant [was] of the opinion that the Counter-Claim submitted by the Respondent . . . [did] not meet the criterion of Article 80, paragraph 1, of the Rules of Court and should therefore not be joined to the original proceedings".

At a meeting which the President of the Court held on 22 September 1997 with the Agents of the Parties both Parties accepted that their respective Governments would submit written observations on the question of the admissibility of the Yugoslav counter-claims.

After Bosnia and Herzegovina and Yugoslavia, in communications dated 9 October and 23 October 1997 respectively, had submitted written observations the Court, by an Order of 17 December 1997 (*I.C.J. Reports 1997*, p. 243), found that the counter-claims submitted by Yugoslavia in its Counter-Memorial were admissible as such and formed part of the proceedings. It further directed Bosnia and Herzegovina to submit a Reply and Yugoslavia to submit a Rejoinder, fixing the time-limits for those pleadings at 23 January and 23 July 1998 respectively.

Judge *ad hoc* Kreća appended a declaration to the Order (*ibid.*, pp. 262-271); Judge Koroma and Judge *ad hoc* Lauterpacht appended separate opinions (*ibid.*, pp. 272-277 and 278-286); and Vice-President Weeramantry appended a dissenting opinion (*ibid.*, pp. 287-297).

By an Order of 22 January 1998 (*I.C.J. Reports 1998*, p. 3), the President of the Court, at the request of Bosnia and Herzegovina and taking into account the views expressed by Yugoslavia, extended the time-limits for the Reply of Bosnia and Herzegovina and the Rejoinder of Yugoslavia to 23 April 1998 and 22 January 1999 respectively. The Reply of Bosnia and Herzegovina was filed within the prescribed time-limit.

6. Gabčíkovo-Nagymaros Project (Hungary/Slovakia)

On 23 October 1992 the Ambassador of the Republic of Hungary to the Netherlands filed in the Registry of the Court an Application instituting proceedings against the Czech and Slovak Federal Republic in a dispute concerning the projected diversion of the Danube. In that document the Hungarian Government, before detailing its case, invited the Czech and Slovak Federal Republic to accept the jurisdiction of the Court.

A copy of the Application was transmitted to the Government of the Czech and Slovak Federal Republic in accordance with Article 38, paragraph 5, of the Rules of Court, which reads as follows:

> "When the Applicant State proposes to found the jurisdiction of the Court upon a consent thereto yet to be given or manifested by the State against which such application is made, the application shall be transmitted to that State. It shall not however be entered in the General List, nor any action be taken in the proceedings, unless and until the State against which such application is made consents to the Court's jurisdiction for the purposes of the case."

Following negotiations under the aegis of the European Communities between Hungary and the Czech and Slovak Federal Republic, which dissolved into two separate States on 1 January 1993, the Governments of the Republic of Hungary and of the Slovak Republic notified jointly, on 2 July 1993, to the Registrar of the Court a Special Agreement, signed at Brussels on 7 April 1993, for the submission to the Court of certain issues arising out of differences which had existed between the Republic of Hungary and the Czech and Slovak Federal Republic, regarding the implementation and the termination of the Budapest Treaty of 16 September 1977 on the Construction and Operation of the Gabčíkovo-Nagymaros Barrage System and on the construction and operation of the "provisional solution". The Special Agreement records that the Slovak Republic is in this respect the sole successor State of the Czech and Slovak Federal Republic.

In Article 2 of the Special Agreement:

> "(1) The Court is requested to decide on the basis of the Treaty and rules and principles of general international law, as well as such other treaties as the Court may find applicable,
>
> *(a)* whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary;
>
> *(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system, described in the Report of the Working Group of Independent Experts of the Commission of the European Communities, the Republic of Hungary and the Czech and Slovak Federal Republic dated 23 November 1992 (damming up of the Danube at river kilometre 1851.7 on Czechoslovak territory and resulting consequences on water and navigation course);
>
> *(c)* what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary.
>
> (2) The Court is also requested to determine the legal consequences, including the rights and obligations for the Parties, arising from its Judgment on the questions in paragraph 1 of this Article."

By an Order of 14 July 1993 (*I.C.J. Reports 1993*, p. 319) the Court decided that, as provided in Article 3, paragraph 2, of the Special Agreement and Article 46, paragraph 1, of the Rules of Court, each Party should file a Memorial and a Counter-Memorial, within the same time-limit, and fixed 2 May 1994 and 5 December 1994 as the time-limits for the filing of the Memorial and Counter-Memorial, respectively. The Memorials and Counter-Memorials were filed within the prescribed time-limits.

Slovakia chose Mr. Krzysztof J. Skubiszewski to sit as judge *ad hoc*.

By an Order of 20 December 1994 (*I.C.J. Reports 1994*, p. 151), the President of the Court, taking into account the views of the Parties, fixed 20 June 1995 as the time-limit for the filing of a Reply by each of the Parties. Those Replies were filed within the prescribed time-limit.

In June 1995 the Agent of Slovakia asked the Court, by letter, to visit the site of the Gabčíkovo-Nagymaros hydroelectric dam project on the river Danube with regard to the obtaining of evidence in the above case. The Agent of Hungary thereupon informed the Court that his country would be pleased to co-operate in organizing such a visit.

In November 1995, in Budapest and New York, the two Parties then signed a "Protocol of Agreement" on the proposal of a visit by the Court, which, after dates had been fixed with the approval of the Court, was supplemented by Agreed Minutes on 3 February 1997.

By an Order of 5 February 1997 (*I.C.J. Reports 1997*, p. 3) the Court decided to "exercise its functions with regard to the obtaining of evidence by visiting a place or locality to which the case relates" (cf. Art. 66 of the Rules of Court) and to "adopt to that end the arrangements proposed by the Parties". The visit, which was the first in the Court's fifty-year history, took place from 1 to 4 April 1997, between the first and second rounds of oral hearings.

The first round of those hearings took place from 3 to 7 March and from 24 to 27 March 1997. A video-film was shown by each of the Parties. The second round took place on 10 and 11 and on 14 and 15 April 1997.

At a public sitting held on 25 September 1997, the Court delivered its Judgment (*I.C.J. Reports 1997*, p. 7), a summary of which is given below, followed by the text of the operative paragraph:

Review of the proceedings and statement of claims (paras. 1-14)

The Court begins by recalling that proceedings had been instituted on 2 July 1993 by a joint notification, by Hungary and Slovakia, of a Special Agreement, signed at Brussels on 7 April 1993. After setting out the text of the Agreement, the Court recites the successive stages of the proceedings, referring, among other things, to its visit, on the invitation of the Parties, to the area, from 1 to 4 April 1997. It further sets out the submissions of the Parties.

History of the dispute (paras. 15-25)

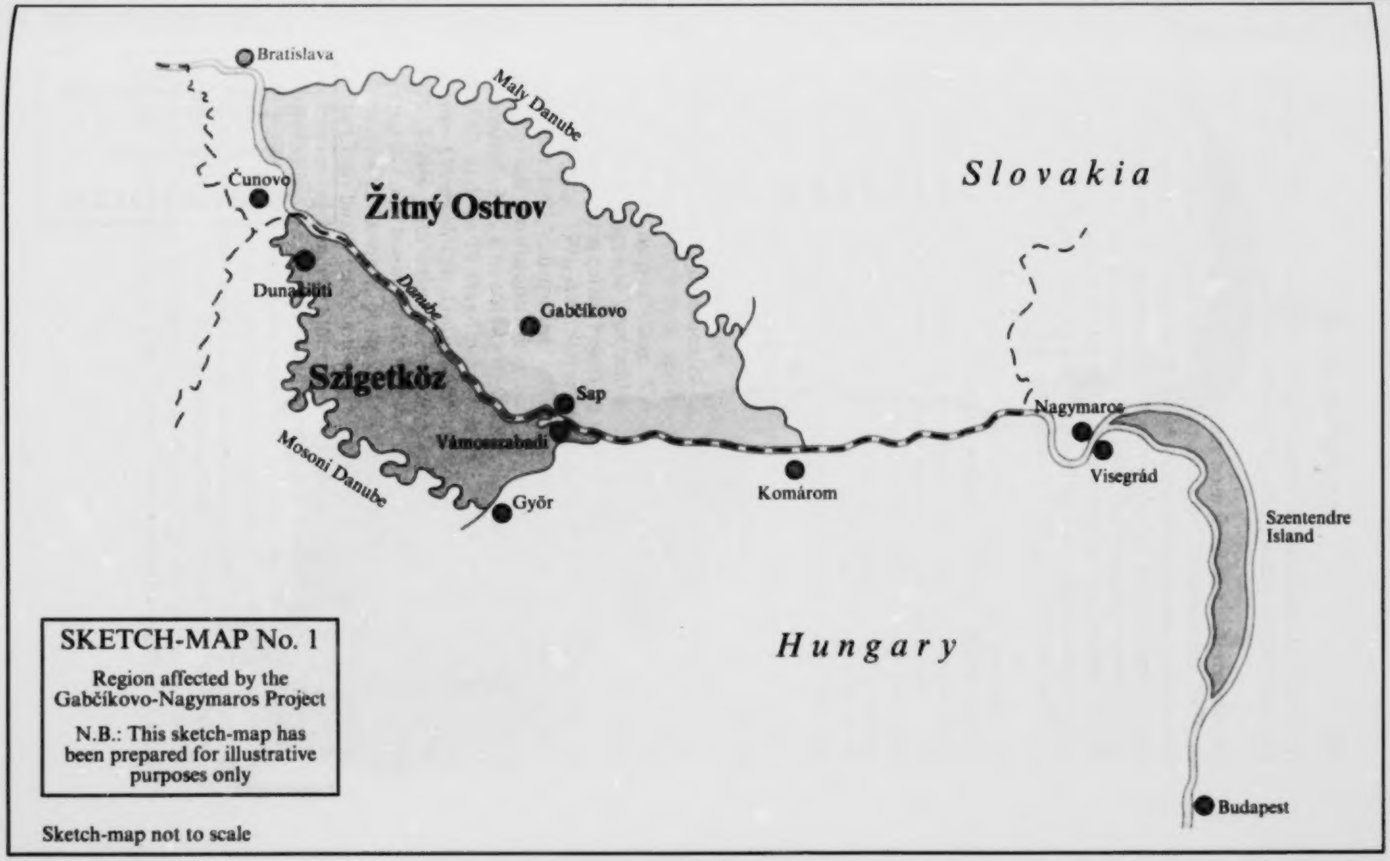
The Court recalls that the present case arose out of the signature, on 16 September 1977, by the Hungarian People's Republic and the Czechoslovak People's Republic, of a treaty "concerning the construction and operation of the Gabčíkovo-Nagymaros System of Locks" (hereinafter called the "1977 Treaty"). The names of the two contracting States have varied over the years; they are referred to as Hungary and Czechoslovakia. The 1977 Treaty entered into force on 30 June 1978. It provides for the construction and operation of a System of Locks by the parties as a "joint investment". According to its Preamble, the system was designed to attain "the broad utilization of the natural resources of the Bratislava-Budapest section of the Danube river for the development of water resources, energy, transport, agriculture and other sectors of the national economy of the Contracting Parties". The joint investment was thus essentially aimed at the production of hydroelectricity, the improvement of navigation on the relevant section of the Danube and the protection of the areas along the banks against flooding. At the same time, by the terms of the Treaty, the contracting parties undertook to ensure that the quality of water in the Danube was not impaired as a result of the Project, and that compliance with the obligations for the protection of nature arising in connection with the construction and operation of the System of Locks would be observed.

The sector of the Danube river with which this case is concerned is a stretch of approximately 200 kilometres, between Bratislava in Slovakia and Budapest in Hungary. Below Bratislava, the river gradient decreases markedly, creating an alluvial plain of gravel and sand sediment. The boundary between the two States is constituted, in the major part of that region, by the main channel of the river. Čunovo and, further downstream, Gabčíkovo, are situated in this sector of the river on Slovak territory, Čunovo on the right bank and Gabčíkovo on the left. Further downstream, after the confluence of the various branches, the river enters Hungarian territory. Nagymaros lies in a narrow valley at a bend in the Danube just before it turns south, enclosing the large river island of Szentendre before reaching Budapest (see p. 207, sketch-map No. 1).

The 1977 Treaty describes the principal works to be constructed in pursuance of the Project. It provided for the building of two series of locks, one at Gabčíkovo (in Czechoslovak territory) and the other at Nagymaros (in Hungarian territory), to constitute "a single and indivisible operational system of works" (see p. 208, sketch-map No. 2). The Treaty further provided that the technical specifications concerning the system would be included in the "Joint Contractual Plan" which was to be drawn up in accordance with the Agreement signed by the two Governments for this purpose on 6 May 1976. It also provided for the construction, financing and management of the works on a joint basis in which the Parties participated in equal measure.

The Joint Contractual Plan set forth, on a large number of points, both the objectives of the system and the characteristics of the works. It also contained "Preliminary Operating and Maintenance Rules", Article 23 of which specified that "The final operating rules [should] be approved within a year of the setting into operation of the system."

The Court observes that the Project was thus to have taken the form of an integrated joint project with the two contracting parties on an equal footing in respect of the financing, construction and operation of the works. Its single and indivisible nature was to have been realized through the Joint Contractual Plan which complemented the Treaty. In

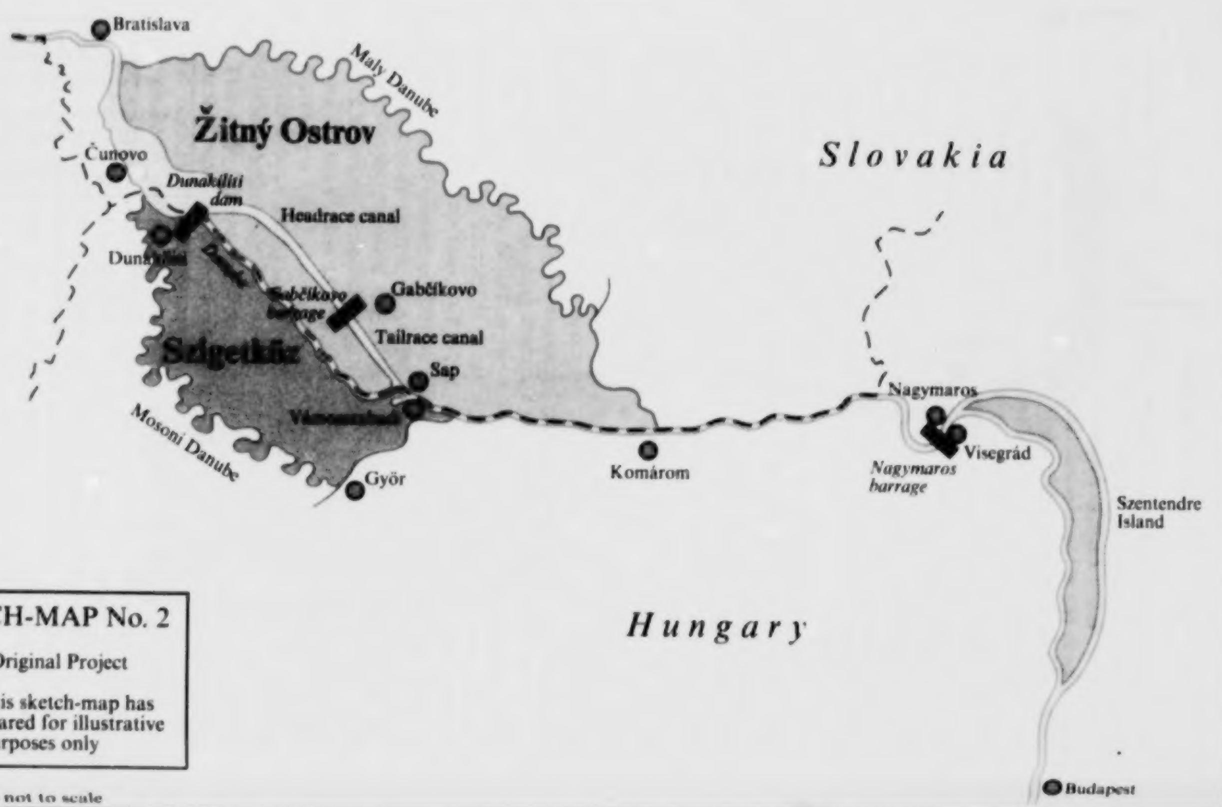

Bratislava
Maly Danube
Slovakia
Čunovo
Žitný Ostrov
Dunakiliti
Danube
Gabčíkovo
Szigetköz
Sap
Vámosszabadi
Mosoni Danube
Győr
Komárom
Nagymaros
Visegrád
Szentendre Island
Hungary
Budapest

SKETCH-MAP No. 1

Region affected by the Gabčíkovo-Nagymaros Project

N.B.: This sketch-map has been prepared for illustrative purposes only

Sketch-map not to scale


Bratislava
Maly Danube
Žitný Ostrov
Čunovo
Dunakiliti dam
Headrace canal
Dunakiliti
Gabčíkovo barrage
Gabčíkovo
Tailrace canal
Sap
Szigetköz
Mosoni Danube
Györ
Komárom
Slovakia
Nagymaros
Visegrád
Nagymaros barrage
Szentendre Island
Hungary
Budapest

SKETCH-MAP No. 2

The Original Project

N.B.: This sketch-map has
been prepared for illustrative
purposes only

Sketch-map not to scale

particular, Hungary would have had control of the sluices at Dunakiliti and the works at Nagymaros, whereas Czechoslovakia would have had control of the works at Gabčíkovo.

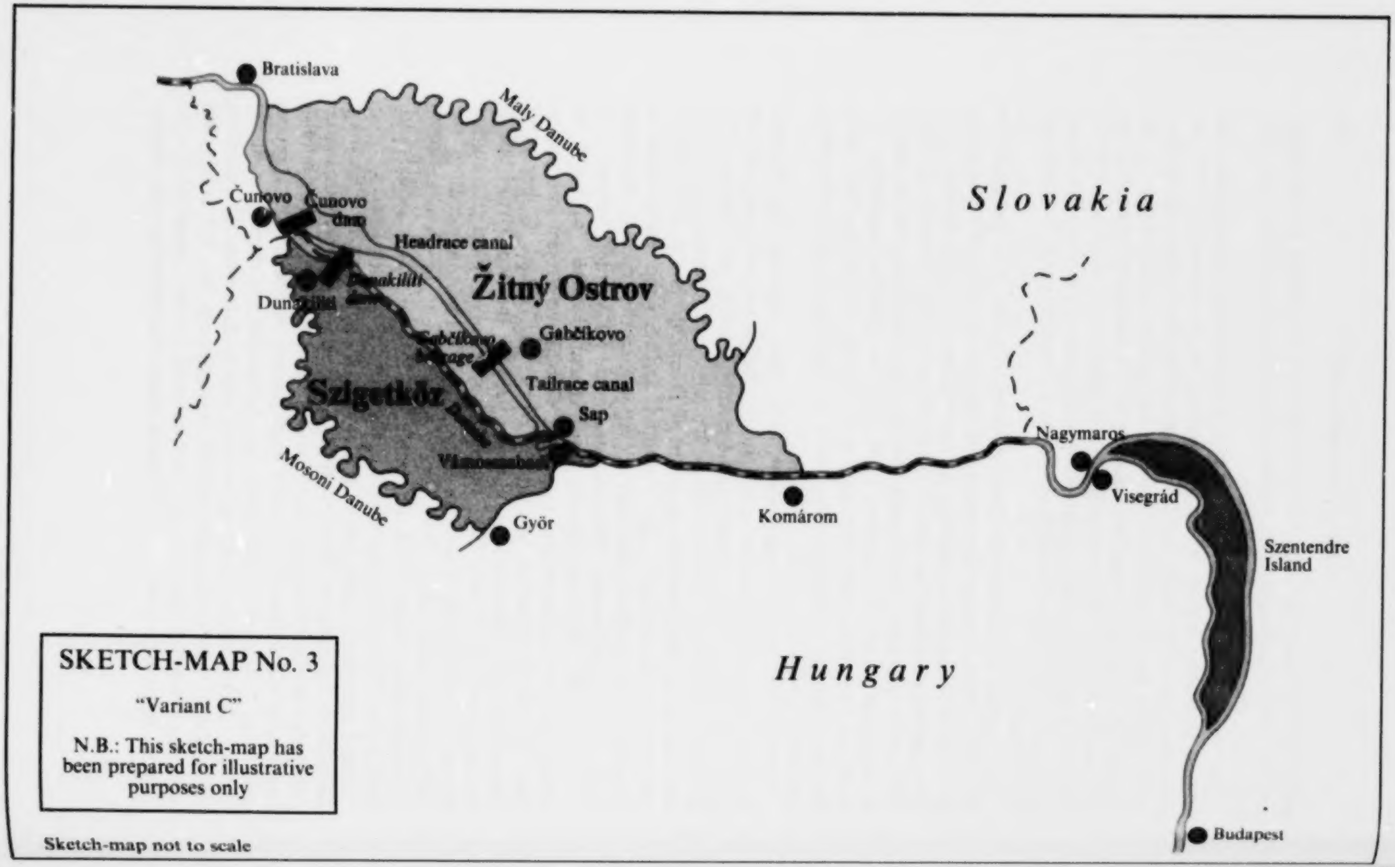
The schedule of work had for its part been fixed in an Agreement on mutual assistance signed by the two parties on 16 September 1977, at the same time as the Treaty itself. The Agreement made some adjustments to the allocation of the works between the parties as laid down by the Treaty. Work on the Project started in 1978. On Hungary's initiative, the two parties first agreed, by two Protocols signed on 10 October 1983 to slow the work down and to postpone putting into operation the power plants, and then, by a Protocol signed on 6 February 1989 to accelerate the Project.

As a result of intense criticism which the Project had generated in Hungary, the Hungarian Government decided on 13 May 1989 to suspend the works at Nagymaros pending the completion of various studies which the competent authorities were to finish before 31 July 1989. On 21 July 1989, the Hungarian Government extended the suspension of the works at Nagymaros until 31 October 1989, and, in addition, suspended the works at Dunakiliti until the same date. Lastly, on 27 October 1989, Hungary decided to abandon the works at Nagymaros and to maintain the status quo at Dunakiliti.

During this period, negotiations took place between the Parties. Czechoslovakia also started investigating alternative solutions. One of them, an alternative solution subsequently known as "Variant C", entailed a unilateral diversion of the Danube by Czechoslovakia on its territory some 10 kilometres upstream of Dunakiliti (see p. 210, sketch-map No. 3). In its final stage, Variant C included the construction at Čunovo of an overflow dam and a levee linking that dam to the south bank of the bypass canal. Provision was made for ancillary works.

On 23 July 1991, the Slovak Government decided "to begin, in September 1991, construction to put the Gabčíkovo Project into operation by the provisional solution". Work on Variant C began in November 1991. Discussions continued between the two Parties but to no avail, and, on 19 May 1992, the Hungarian Government transmitted to the Czechoslovak Government a Note Verbale terminating the 1977 Treaty with effect from 25 May 1992. On 15 October 1992, Czechoslovakia began work to enable the Danube to be closed and, starting on 23 October, proceeded to the damming of the river.

The Court finally takes note of the fact that on 1 January 1993 Slovakia became an independent State; that in the Special Agreement thereafter concluded between Hungary and Slovakia the Parties agreed to establish and implement a temporary water management régime for the Danube; and that finally they concluded an Agreement in respect of it on 19 April 1995, which would come to an end 14 days after the Judgment of the Court. The Court also observes that not only the 1977 Treaty, but also the "related instruments" are covered in the preamble to the Special Agreement and that the Parties, when concentrating their reason-


Bratislava
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Čunovo dam
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Gabčíkovo barrage
Tailrace canal
Szigetköz
Sap
Vámosszabadi
Mosoni Danube
Györ
Komárom
Nagymaros
Visegrád
Szentendre Island
Hungary
Budapest

SKETCH-MAP No. 3

"Variant C"

N.B.: This sketch-map has been prepared for illustrative purposes only

Sketch-map not to scale

ing on the 1977 Treaty, appear to have extended their arguments to the "related instruments".

Suspension and abandonment by Hungary, in 1989, of works on the Project (paras. 27-59)

In terms of Article 2, paragraph 1 *(a)*, of the Special Agreement, the Court is requested to decide first

> "whether the Republic of Hungary was entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty attributed responsibility to the Republic of Hungary".

The Court observes that it has no need to dwell upon the question of the applicability or non-applicability in the present case of the Vienna Convention of 1969 on the Law of Treaties, as argued by the Parties. It needs only to be mindful of the fact that it has several times had occasion to hold that some of the rules laid down in that Convention might be considered as a codification of existing customary law. The Court takes the view that in many respects this applies to the provisions of the Vienna Convention concerning the termination and the suspension of the operation of treaties, set forth in Articles 60 to 62. Neither has the Court lost sight of the fact that the Vienna Convention is in any event applicable to the Protocol of 6 February 1989 whereby Hungary and Czechoslovakia agreed to accelerate completion of the works relating to the Gabčíkovo-Nagymaros Project.

Nor does the Court need to dwell upon the question of the relationship between the law of treaties and the law of State responsibility, to which the Parties devoted lengthy arguments, as those two branches of international law obviously have a scope that is distinct. A determination of whether a convention is or is not in force, and whether it has or has not been properly suspended or denounced, is to be made pursuant to the law of treaties. On the other hand, an evaluation of the extent to which the suspension or denunciation of a convention, seen as incompatible with the law of treaties, involves the responsibility of the State which proceeded to it, is to be made under the law of State responsibility.

The Court cannot accept Hungary's argument to the effect that, in 1989, in suspending and subsequently abandoning the works for which it was still responsible at Nagymaros and at Dunakiliti, it did not suspend the application of the 1977 Treaty itself or then reject that Treaty. The conduct of Hungary at that time can only be interpreted as an expression of its unwillingness to comply with at least some of the provisions of the Treaty and the Protocol of 6 February 1989, as specified in the Joint Contractual Plan. The effect of Hungary's conduct was to render impossible the accomplishment of the system of works that the Treaty expressly described as "single and indivisible".

The Court then considers the question of whether there was, in 1989, a state of necessity which would have permitted Hungary, without incurring international responsibility, to suspend and abandon works that it was committed to perform in accordance with the 1977 Treaty and related instruments.

The Court observes, first of all, that the state of necessity is a ground recognized by customary international law for precluding the wrongfulness of an act not in conformity with an international obligation. It considers moreover that such ground for precluding wrongfulness can only be accepted on an exceptional basis. The following basic conditions set forth in Article 33 of the Draft Article on the International Responsibility of States by the International Law Commission are relevant in the present case: it must have been occasioned by an "essential interest" of the State which is the author of the act conflicting with one of its international obligations; that interest must have been threatened by a "grave and imminent peril"; the act being challenged must have been the "only means" of safeguarding that interest; that act must not have "seriously impair[ed] an essential interest" of the State towards which the obligation existed; and the State which is the author of that act must not have "contributed to the occurrence of the state of necessity". Those conditions reflect customary international law.

The Court has no difficulty in acknowledging that the concerns expressed by Hungary for its natural environment in the region affected by the Gabčíkovo-Nagymaros Project related to an "essential interest" of that State.

It is of the view, however, that, with respect to both Nagymaros and Gabčíkovo, the perils invoked by Hungary, without prejudging their possible gravity, were not sufficiently established in 1989, nor were they "imminent"; and that Hungary had available to it at that time means of responding to these perceived perils other than the suspension and abandonment of works with which it had been entrusted. What is more, negotiations were under way which might have led to a review of the Project and the extension of some of its time-limits, without there being need to abandon it.

The Court further notes that Hungary when it decided to conclude the 1977 Treaty, was presumably aware of the situation as then known; and that the need to ensure the protection of the environment had not escaped the parties. Neither can it fail to note the positions taken by Hungary after the entry into force of the 1977 Treaty. The Court infers that, in the present case, even if it had been established that there was, in 1989, a state of necessity linked to the performance of the 1977 Treaty, Hungary would not have been permitted to rely upon that state of necessity in order to justify its failure to comply with its treaty obligations, as it had helped, by act or omission to bring it about.

In the light of the conclusions reached above, the Court finds that Hungary was not entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the 1977 Treaty and related instruments attributed responsibility to it.

Czechoslovakia's proceeding, in November 1991, to "Variant C" and putting into operation, from October 1992, this Variant (paras. 60-88)

By the terms of Article 2, paragraph 1 *(b)*, of the Special Agreement, the Court is asked in the second place to decide

> "*(b)* whether the Czech and Slovak Federal Republic was entitled to proceed, in November 1991, to the 'provisional solution' and to put into operation from October 1992 this system".

Czechoslovakia had maintained that proceeding to Variant C and putting it into operation did not constitute internationally wrongful acts; Slovakia adopted this argument. During the proceedings before the Court Slovakia contended that Hungary's decision to suspend and subsequently abandon the construction of works at Dunakiliti had made it impossible for Czechoslovakia to carry out the works as initially contemplated by the 1977 Treaty and that the latter was therefore entitled to proceed with a solution which was as close to the original Project as possible. Slovakia invoked what it described as a "principle of approximate application" to justify the construction and operation of Variant C. It explained that this was the only possibility remaining to it "of fulfilling not only the purposes of the 1977 Treaty, but the continuing obligation to implement it in good faith".

The Court observes that it is not necessary to determine whether there is a principle of international law or a general principle of law of "approximate application" because, even if such a principle existed, it could by definition only be employed within the limits of the treaty in question. In the view of the Court, Variant C does not meet that cardinal condition with regard to the 1977 Treaty.

As the Court has already observed, the basic characteristic of the 1977 Treaty is, according to Article 1, to provide for the construction of the Gabčíkovo-Nagymaros System of Locks as a joint investment constituting a single and indivisible operational system of works. This element is equally reflected in Articles 8 and 10 of the Treaty providing for joint ownership of the most important works of the Gabčíkovo-Nagymaros Project and for the operation of this joint property as a co-ordinated single unit. By definition all this could not be carried out by unilateral action. In spite of having a certain external physical similarity with the original Project, Variant C thus differed sharply from it in its legal characteristics. The Court accordingly concludes that Czechoslovakia, in putting Variant C into operation, was not applying the 1977 Treaty but, on the contrary, violated certain of its express provisions, and, in so doing, committed an internationally wrongful act.

The Court notes that between November 1991 and October 1992, Czechoslovakia confined itself to the execution, on its own territory, of the works which were necessary for the implementation of Variant C, but which could have been abandoned if an agreement had been reached between the parties and did not therefore predetermine the final decision to be taken. For as long as the Danube had not been unilaterally dammed, Variant C had not in fact been applied. Such a situation is not unusual. in international law or, for that matter, in domestic law. A wrongful act or offence is frequently preceded by preparatory actions which are not to be confused with the act or offence itself. It is as well to distinguish between the actual commission of a wrongful act (whether instantaneous or continuous) and the conduct prior to that act which is of a preparatory character and which "does not qualify as a wrongful act".

Slovakia also maintained that it was acting under a duty to mitigate damages when it carried out Variant C. It stated that "It is a general principle of international law that a party injured by the non-performance of another contract party must seek to mitigate the damage he has sustained." But the Court observes that, while this principle might thus provide a basis for the calculation of damages, it could not, on the other hand, justify an otherwise wrongful act. The Court further considers that the diversion of the Danube carried out by Czechoslovakia was not a lawful countermeasure because it was not proportionate.

In the light of the conclusions reached above, the Court finds that Czechoslovakia was entitled to proceed, in November 1991, to Variant C in so far as it then confined itself to undertaking works which did not predetermine the final decision to be taken by it. On the other hand, Czechoslovakia was not entitled to put that Variant into operation from October 1992.

Notification by Hungary, on 19 May 1992, of the termination of the 1977 Treaty and related instruments (paras. 89-115)

By the terms of Article 2, paragraph 1 *(c)*, of the Special Agreement, the Court is asked, thirdly, to determine "what are the legal effects of the notification, on 19 May 1992, of the termination of the Treaty by the Republic of Hungary".

During the proceedings, Hungary presented five arguments in support of the lawfulness, and thus the effectiveness, of its notification of termination. These were the existence of a state of necessity; the impossibility of performance of the Treaty; the occurrence of a fundamental change of circumstances; the material breach of the Treaty by Czechoslovakia; and, finally, the development of new norms of international environmental law. Slovakia contested each of these grounds.

State of necessity

The Court observes that, even if a state of necessity is found to exist, it is not a ground for the termination of a treaty. It may only be invoked to exonerate from its responsibility a State which has failed to implement a treaty.

Impossibility of performance

The Court finds that it is not necessary to determine whether the term "object" in Article 61 of the Vienna Convention of 1969 on the Law of

Treaties (which speaks of "permanent disappearance or destruction of an object indispensable for the execution of the treaty" as a ground for terminating or withdrawing from it) can also be understood to embrace a legal régime as in any event, even if that were the case, it would have to conclude that in this instance that régime had not definitively ceased to exist. The 1977 Treaty – and in particular its Articles 15, 19 and 20 – actually made available to the parties the necessary means to proceed at any time, by negotiation, to the required readjustments between economic imperatives and ecological imperatives.

Fundamental change of circumstances

In the Court's view the prevalent political conditions were not so closely linked to the object and purpose of the Treaty that they constituted an essential basis of the consent of the parties and, in changing, radically altered the extent of the obligations still to be performed. The same holds good for the economic system in force at the time of the conclusion of the 1977 Treaty. Nor does the Court consider that new developments in the state of environmental knowledge and of environmental law can be said to have been completely unforeseen. What is more, the formulation of Articles 15, 19 and 20 is designed to accommodate change. The changed circumstances advanced by Hungary are thus, in the Court's view, not of such a nature, either individually or collectively, that their effect would radically transform the extent of the obligations still to be performed in order to accomplish the Project.

Material breach of the Treaty

Hungary's main argument for invoking a material breach of the Treaty was the construction and putting into operation of Variant C. The Court pointed out that it had already found that Czechoslovakia violated the Treaty only when it diverted the waters of the Danube into the bypass canal in October 1992. In constructing the works which would lead to the putting into operation of Variant C, Czechoslovakia did not act unlawfully. In the Court's view, therefore, the notification of termination by Hungary on 19 May 1992 was premature. No breach of the Treaty by Czechoslovakia had yet taken place and consequently Hungary was not entitled to invoke any such breach of the Treaty as a ground for terminating it when it did.

Development of new norms of international environmental law

The Court notes that neither of the Parties contended that new peremptory norms of environmental law had emerged since the conclusion of the 1977 Treaty; and the Court will consequently not be required to examine the scope of Article 64 of the Vienna Convention on the Law of Treaties (which treats of the voidance and termination of a treaty because of the emergence of a new peremptory norm of general international law *(jus cogens)*). On the other hand, the Court wishes to point out that newly developed norms of environmental law are relevant for the implementation of the Treaty and that the parties could, by agreement, incorporate them through the application of Articles 15, 19 and 20 of the Treaty. These articles do not contain specific obligations of performance but require the parties, in carrying out their obligations to ensure that the quality of water in the Danube is not impaired and that nature is protected, to take new environmental norms into consideration when agreeing upon the means to be specified in the Joint Contractual Plan. By inserting these evolving provisions in the Treaty, the parties recognized the potential necessity to adapt the Project. Consequently, the Treaty is not static, and is open to adapt to emerging norms of international law. By means of Articles 15 and 19, new environmental norms can be incorporated in the Joint Contractual Plan. The awareness of the vulnerability of the environment and the recognition that environmental risks have to be assessed on a continuous basis have become much stronger in the years since the Treaty's conclusion. These new concerns have enhanced the relevance of Articles 15, 19 and 20. The Court recognizes that both Parties agree on the need to take environmental concerns seriously and to take the required precautionary measures, but they fundamentally disagree on the consequences this has for the joint Project. In such a case, third-party involvement may be helpful and instrumental in finding a solution, provided each of the Parties is flexible in its position.

Finally, the Court is of the view that although it has found that both Hungary and Czechoslovakia failed to comply with their obligations under the 1977 Treaty, this reciprocal wrongful conduct did not bring the Treaty to an end nor justify its termination.

In the light of the conclusions it has reached above, the Court finds that the notification of termination by Hungary of 19 May 1992 did not have the legal effect of terminating the 1977 Treaty and related instruments.

Dissolution of Czechoslovakia (paras. 117-124)

The Court then turns to the question whether Slovakia became a party to the 1977 Treaty as successor to Czechoslovakia. As an alternative argument, Hungary contended that, even if the Treaty survived the notification of termination, in any event it ceased to be in force as a treaty on 31 December 1992, as a result of the "disappearance of one of the parties". On that date Czechoslovakia ceased to exist as a legal entity, and on 1 January 1993 the Czech Republic and the Slovak Republic came into existence.

The Court does not find it necessary for the purposes of the present case to enter into a discussion of whether or not Article 34 of the 1978 Vienna Convention on Succession of States in respect of Treaties (in which a rule of automatic succession to all treaties is provided for) reflects the state of customary international law. More relevant to its present analysis is the particular nature and character of the 1977 Treaty.

An examination of this Treaty confirms that, aside from its undoubted nature as a joint investment, its major elements were the proposed construction and joint operation of a large, integrated and indivisible complex of structures and installations on specific parts of the respective territories of Hungary and Czechoslovakia along the Danube. The Treaty also established the navigational régime for an important sector of an international waterway, in particular the relocation of the main international shipping lane to the bypass canal. In so doing, it inescapably created a situation in which the interests of other users of the Danube were affected. Furthermore, the interests of third States were expressly acknowledged in Article 18, whereby the parties undertook to ensure "uninterrupted and safe navigation on the international fairway" in accordance with their obligations under the Convention of 18 August 1948 concerning the Régime of Navigation on the Danube.

The Court then refers to Article 12 of the 1978 Vienna Convention on Succession of States in respect of Treaties, which reflects the principle that treaties of a territorial character have been regarded both in traditional doctrine and in modern opinion as unaffected by a succession of States. The Court considers that Article 12 reflects a rule of customary international law; and notes that neither of the Parties disputed this. It concludes that the content of the 1977 Treaty indicates that it must be regarded as establishing a territorial régime within the meaning of Article 12 of the 1978 Vienna Convention. It created rights and obligations "attaching to" the parts of the Danube to which it relates; thus the Treaty itself could not be affected by a succession of States. The Court therefore concludes that the 1977 Treaty became binding upon Slovakia on 1 January 1993.

Legal consequences of the Judgment (paras. 125-154)

The Court observes that the part of its Judgment which answers the questions in Article 2, paragraph 1, of the Special Agreement has a declaratory character. It deals with the *past* conduct of the Parties and determines the lawfulness or unlawfulness of that conduct between 1989 and 1992 as well as its effects on the existence of the Treaty. Now the Court has, on the basis of the foregoing findings, to determine what the *future* conduct of the Parties should be. This part of the Judgment is prescriptive rather than declaratory because it determines what the rights and obligations of the Parties are. The Parties will have to seek agreement on the modalities of the execution of the Judgment in the light of this determination, as they agreed to do in Article 5 of the Special Agreement.

In this regard it is of cardinal importance that the Court has found that the 1977 Treaty is still in force and consequently governs the relationship between the Parties. That relationship is also determined by the rules of other relevant conventions to which the two States are party, by the rules of general international law and, in this particular case, by the rules of State responsibility; but it is governed, above all, by the applicable rules of the 1977 Treaty as a *lex specialis*. The Court observes that it cannot, however, disregard the fact that the Treaty has not been fully implemented by either party for years, and indeed that their acts of commission and omission have contributed to creating the factual situation that now exists. Nor can it overlook that factual situation – or the practical possibilities and impossibilities to which it gives rise – when deciding on the legal requirements for the future conduct of the Parties. What is essential, therefore, is that the factual situation as it has developed since 1989 shall be placed within the context of the preserved and developing treaty relationship, in order to achieve its object and purpose in so far as that is feasible. For it is only then that the irregular state of affairs which exists as the result of the failure of both Parties to comply with their treaty obligations can be remedied.

The Court points out that the 1977 Treaty is not only a joint investment project for the production of energy, but it was designed to serve other objectives as well: the improvement of the navigability of the Danube, flood control and regulation of ice-discharge, and the protection of the natural environment. In order to achieve these objectives the parties accepted obligations of conduct, obligations of performance, and obligations of result. The Court is of the opinion that the Parties are under a legal obligation, during the negotiations to be held by virtue of Article 5 of the Special Agreement, to consider, within the context of the 1977 Treaty, in what way the multiple objectives of the Treaty can best be served, keeping in mind that all of them should be fulfilled.

It is clear that the Project's impact upon, and its implications for, the environment are of necessity a key issue. In order to evaluate the environmental risks, current standards must be taken into consideration. This is not only allowed by the wording of Articles 15 and 19, but even prescribed, to the extent that these articles impose a continuing – and thus necessarily evolving – obligation on the parties to maintain the quality of the water of the Danube and to protect nature. The Court is mindful that, in the field of environmental protection, vigilance and prevention are required on account of the often irreversible character of damage to the environment and of the limitations inherent in the very mechanism of reparation of this type of damage. New norms and standards have been developed, set forth in a great number of instruments during the last two decades. Such new norms have to be taken into consideration, and such new standards given proper weight, not only when States contemplate new activities but also when continuing with activities begun in the past. For the purposes of the present case, this means that the Parties together should look afresh at the effects on the environment of the operation of the Gabčíkovo power plant. In particular they must find a satisfactory solution for the volume of water to be released into the old bed of the Danube and into the side-arms on both sides of the river.

What is required in the present case by the rule *pacta sunt servanda*, as reflected in Article 26 of the Vienna Convention of 1969 on the Law of Treaties, is that the Parties find an agreed solution within the co-operative context of the Treaty. Article 26 combines two elements, which are of equal importance. It provides that "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." This latter element, in the Court's view, implies that, in this case, it is the purpose of the Treaty, and the intentions of the parties in concluding it, which should prevail over its literal application. The principle of good faith obliges the Parties to apply it in a reasonable way and in such a manner that its purpose can be realized.

The 1977 Treaty not only contains a joint investment programme, it also establishes a régime. According to the Treaty, the main structures of the System of Locks are the joint property of the Parties; their operation will take the form of a co-ordinated single unit; and the benefits of the project shall be equally shared. Since the Court has found that the Treaty is still in force and that, under its terms, the joint régime is a basic element, it considers that, unless the Parties agree otherwise, such a régime should be restored. The Court is of the opinion that the works at Čunovo should become a jointly operated unit within the meaning of Article 10, paragraph 1, in view of their pivotal role in the operation of what remains of the Project and for the water-management régime. The dam at Čunovo has taken over the role which was originally destined for the works at Dunakiliti, and therefore should have a similar status. The Court also concludes that Variant C, which it considers operates in a manner incompatible with the Treaty, should be made to conform to it. It observes that re-establishment of the joint régime will also reflect in an optimal way the concept of common utilization of shared water resources for the achievement of the several objectives mentioned in the Treaty.

Having thus far indicated what in its view should be the effects of its finding that the 1977 Treaty is still in force, the Court turns to the legal consequences of the internationally wrongful acts committed by the Parties, as it had also been asked by both Parties to determine the consequences of the Judgment as they bear upon payment of damages.

The Court has not been asked at this stage to determine the quantum of damages due, but to indicate on what basis they should be paid. Both Parties claimed to have suffered considerable financial losses and both claim pecuniary compensation for them.

In the Judgment, the Court has concluded that both Parties committed internationally wrongful acts, and it has noted that those acts gave rise to the damage sustained by the Parties; consequently, Hungary and Slovakia are both under an obligation to pay compensation and are both entitled to obtain compensation. The Court observes, however, that given the fact that there have been intersecting wrongs by both Parties, the issue of compensation could satisfactorily be resolved in the framework of an overall settlement if each of the Parties were to renounce or cancel all financial claims and counter-claims. At the same time, the Court wishes to point out that the settlement of accounts for the construction of the works is different from the issue of compensation, and must be resolved in accordance with the 1977 Treaty and related instruments. If Hungary is to share in the operation and benefits of the Čunovo complex, it must pay a proportionate share of the building and running costs.

*

Operative paragraph (para. 155)

"For these reasons,

THE COURT,

(1) Having regard to Article 2, paragraph 1, of the Special Agreement,

A. By fourteen votes to one,

Finds that Hungary was not entitled to suspend and subsequently abandon, in 1989, the works on the Nagymaros Project and on the part of the Gabčíkovo Project for which the Treaty of 16 September 1977 and related instruments attributed responsibility to it;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Fleischhauer, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Skubiszewski;

AGAINST: *Judge* Herczegh;

B. By nine votes to six,

Finds that Czechoslovakia was entitled to proceed, in November 1991, to the 'provisional solution' as described in the terms of the Special Agreement;

IN FAVOUR: *Vice-President* Weeramantry; *Judges* Oda, Guillaume, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge* ad hoc Skubiszewski;

AGAINST: *President* Schwebel; *Judges* Bedjaoui, Ranjeva, Herczegh, Fleischhauer, Rezek;

C. By ten votes to five,

Finds that Czechoslovakia was not entitled to put into operation, from October 1992, this 'provisional solution';

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Kooijmans, Rezek;

AGAINST: *Judges* Oda, Koroma, Vereshchetin, Parra-Aranguren; *Judge* ad hoc Skubiszewski;

D. By eleven votes to four,

Finds that the notification, on 19 May 1992, of the termination of the Treaty of 16 September 1977 and related instruments by Hungary did not have the legal effect of terminating them;

IN FAVOUR: *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge* ad hoc Skubiszewski;

AGAINST: *President* Schwebel; *Judges* Herczegh, Fleischhauer, Rezek;

(2) Having regard to Article 2, paragraph 2, and Article 5 of the Special Agreement,

A. By twelve votes to three,

Finds that Slovakia, as successor to Czechoslovakia, became a party to the Treaty of 16 September 1977 as from 1 January 1993;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans; *Judge* ad hoc Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer, Rezek;

B. By thirteen votes to two,

Finds that Hungary and Slovakia must negotiate in good faith in the light of the prevailing situation, and must take all necessary measures to ensure the achievement of the objectives of the Treaty of 16 September 1977, in accordance with such modalities as they may agree upon;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer;

C. By thirteen votes to two,

Finds that, unless the Parties otherwise agree, a joint operational régime must be established in accordance with the Treaty of 16 September 1977;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer;

D. By twelve votes to three,

Finds that, unless the Parties otherwise agree, Hungary shall compensate Slovakia for the damage sustained by Czechoslovakia and by Slovakia on account of the suspension and abandonment by Hungary of works for which it was responsible; and Slovakia shall compensate Hungary for the damage it has sustained on account of the putting into operation of the 'provisional solution' by Czechoslovakia and its maintenance in service by Slovakia;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Skubiszewski;

AGAINST: *Judges* Oda, Koroma, Vereshchetin;

E. By thirteen votes to two,

Finds that the settlement of accounts for the construction and operation of the works must be effected in accordance with the relevant provisions of the Treaty of 16 September 1977 and related instruments, taking due account of such measures as will have been taken by the Parties in application of points 2 B and C of the present operative paragraph.

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Shi, Koroma, Vereshchetin, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Skubiszewski;

AGAINST: *Judges* Herczegh, Fleischhauer."

*

President Schwebel and Judge Rezek appended declarations to the Judgment of the Court (*I.C.J. Reports 1997*, pp. 85 and 86-87); Vice-President Weeramantry, Judges Bedjaoui and Koroma appended separate opinions (*ibid.*, pp. 88-119, 120-141 and 142-152); Judges Oda, Ranjeva, Herczegh, Fleischhauer, Vereshchetin and Parra-Aranguren and Judge *ad hoc* Skubiszewski appended dissenting opinions (*ibid.*, pp. 153-169, 170-175, 176-203, 204-218, 219-226, 227-231 and 232-241).

7. *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*

On 29 March 1994 the Republic of Cameroon filed in the Registry of the Court an Application instituting proceedings against the Federal Republic of Nigeria in a dispute concerning the question of sovereignty over the peninsula of Bakassi, and requesting the Court to determine the course of the maritime frontier between the two States in so far as that frontier had not already been established in 1975.

As a basis for the jurisdiction of the Court, the Application refers to the declarations made by Cameroon and Nigeria under Article 36, paragraph 2, of the Statute of the Court, by which they accept that jurisdiction as compulsory.

In the Application Cameroon refers to "an aggression by the Federal Republic of Nigeria, whose troops are occupying several Cameroonian localities on the Bakassi Peninsula", resulting "in great prejudice to the Republic of Cameroon", and requests the Court to adjudge and declare:

"*(a)* that sovereignty over the Peninsula of Bakassi is Cameroonian, by virtue of international law, and that that Peninsula is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited from colonization *(uti possidetis juris)*;

(c) that by using force against the Republic of Cameroon, the Federal Republic of Nigeria has violated and is violating its obligations under international treaty law and customary law;

(d) that the Federal Republic of Nigeria, by militarily occupying the Cameroonian Peninsula of Bakassi, has violated and is violating the obligations incumbent upon it by virtue of treaty law and customary law;

(e) that in view of these breaches of legal obligation, mentioned above, the Federal Republic of Nigeria has the express duty of putting an end to its military presence in Cameroonian territory, and effecting an immediate and unconditional withdrawal of its troops from the Cameroonian Peninsula of Bakassi;

(e′) that the internationally unlawful acts referred to under *(a)*, *(b)*, *(c)*, *(d)*, and *(e)* above involve the responsibility of the Federal Republic of Nigeria;

(e″) that, consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) in order to prevent any dispute arising between the two States concerning their maritime boundary, the Republic of Cameroon requests the Court to proceed to prolong the course of its maritime boundary with the Federal Republic of Nigeria up to the limit of the maritime zones which international law places under their respective jurisdictions."

On 6 June 1994 Cameroon filed in the Registry of the Court an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as relating essentially "to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad", while also asking the Court to specify definitively the frontier between Cameroon and Nigeria from Lake Chad to the sea. Cameroon requested the Court to adjudge and declare:

"*(a)* that sovereignty over the disputed parcel in the area of Lake Chad is Cameroonian, by virtue of international law, and that that parcel is an integral part of the territory of Cameroon;

(b) that the Federal Republic of Nigeria has violated and is violating the fundamental principle of respect for frontiers inherited

from colonization *(uti possidetis juris)*, and its recent legal commitments concerning the demarcation of frontiers in Lake Chad;

(c) that the Federal Republic of Nigeria, by occupying, with the support of its security forces, parcels of Cameroonian territory in the area of Lake Chad, has violated and is violating its obligations under treaty law and customary law;

(d) that in view of these legal obligations, mentioned above, the Federal Republic of Nigeria has the express duty of effecting an immediate and unconditional withdrawal of its troops from Cameroonian territory in the area of Lake Chad;

(e) that the internationally unlawful acts referred to under *(a)*, *(b)*, and *(d)* above involve the responsibility of the Federal Republic of Nigeria;

(e') that consequently, and on account of the material and non-material damage inflicted upon the Republic of Cameroon, reparation in an amount to be determined by the Court is due from the Federal Republic of Nigeria to the Republic of Cameroon, which reserves the introduction before the Court of [proceedings for] a precise assessment of the damage caused by the Federal Republic of Nigeria;

(f) that in view of the repeated incursions of Nigerian groups and armed forces into Cameroonian territory, all along the frontier between the two countries, the consequent grave and repeated incidents, and the vacillating and contradictory attitude of the Federal Republic of Nigeria in regard to the legal instruments defining the frontier between the two countries and the exact course of that frontier, the Republic of Cameroon respectfully asks the Court to specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea."

Cameroon further requested the Court to join the two Applications "and to examine the whole in a single case".

At a meeting between the President of the Court and the representatives of the Parties held on 14 June 1994, the Agent of Nigeria indicated that his Government had no objection to the Additional Application being treated as an amendment to the initial Application, so that the Court could deal with the whole as one case.

Cameroon chose Mr. Kéba Mbaye and Nigeria Prince Bola A. Ajibola to sit as judges *ad hoc*.

By an Order of 16 June 1994 (*I.C.J. Reports 1994*, p. 105), the Court, seeing no objection to the suggested procedure, fixed 16 March 1995 as the time-limit for filing the Memorial of Cameroon, and 18 December 1995 as the time-limit for filing the Counter-Memorial of Nigeria. The Memorial was filed within the prescribed time-limit.

On 13 December 1995, within the time-limit for the filing of its Counter-

Memorial, Nigeria filed certain preliminary objections to the jurisdiction of the Court and to the admissibility of the claims of Cameroon.

By virtue of Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits are suspended when preliminary objections are filed; proceedings have then to be organized for the consideration of those preliminary objections in accordance with the provisions of that Article.

By an Order of 10 January 1996 (*I.C.J. Reports 1996*, p. 3), the President of the Court, taking into account the views expressed by the Parties at a meeting between the President and the Agents of the Parties held on 10 January 1996, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections raised by Nigeria. Cameroon filed such a statement within the prescribed time-limit.

On 12 February 1996, the Registry of the International Court of Justice received from Cameroon a request for the indication of provisional measures, with reference to "serious armed incidents" which had taken place between Cameroonian and Nigerian forces in the Bakassi Peninsula beginning on 3 February 1996.

In its request Cameroon referred to the submissions made in its Application of 29 May 1994, supplemented by an Additional Application of 6 June of that year, as also summed up in its Memorial of 16 March 1995, and requested the Court to indicate the following provisional measures:

> "(1) the armed forces of the Parties shall withdraw to the position they were occupying before the Nigerian armed attack of 3 February 1996;
> (2) the Parties shall abstain from all military activity along the entire boundary until the judgment of the Court takes place;
> (3) the Parties shall abstain from any act or action which might hamper the gathering of evidence in the present case".

Public sittings to hear the oral observations of the Parties on the request for the indication of provisional measures were held between 5 and 8 March 1996.

At a public sitting, held on 15 March 1996, the President of the Court read the Order on the request for provisional measures made by Cameroon (*I.C.J. Reports 1996*, p. 13), by which the Court indicated that "both Parties should ensure that no action of any kind, and particularly no action by their armed forces, is taken which might prejudice the rights of the other in respect of whatever judgment the Court may render in the case, or which might aggravate or extend the dispute before it"; that they "should observe the agreement reached between the Ministers for Foreign Affairs in Kara, Togo, on 17 February 1996, for the cessation of all hostilities in the Bakassi Peninsula"; that they "should ensure that the presence of any armed forces in the Bakassi Peninsula does not extend beyond the positions in which they were situated prior to 3 February 1996"; that they "should take all necessary steps to conserve evidence relevant to the present case within the disputed area"; and that they "should lend every assistance to the fact-finding mission which the Secretary-General of the United Nations has proposed to send to the Bakassi Peninsula".

Judges Oda, Shahabuddeen, Ranjeva and Koroma appended declarations to the Order of the Court (*I.C.J. Reports 1996*, pp. 26-27, 28, 29 and 30); Judges Weeramantry, Shi and Vereshchetin appended a joint declaration (*ibid.*, p. 31); Judge *ad hoc* Mbaye also appended a declaration (*ibid.*, pp. 32-34). Judge *ad hoc* Ajibola appended a separate opinion to the Order (*ibid.*, pp. 35-36).

Public sittings to hear the oral arguments of the Parties on the preliminary objections raised by Nigeria were held from 2 to 11 March 1998.

At a public sitting held on 11 June 1998, the Court delivered its Judgment on the preliminary objections (*I.C.J. Reports 1998*, p. 275), a summary of which is given below, followed by the text of the operative paragraph:

Review of the proceedings and submissions (paras. 1-19)

The Court begins by recalling that on 29 March 1994 Cameroon instituted proceedings against Nigeria in respect of a dispute described as "relat[ing] essentially to the question of sovereignty over the Bakassi Peninsula". Cameroon further stated in its Application that the "delimitation [of the maritime boundary between the two States] has remained a partial one and [that], despite many attempts to complete it, the two parties have been unable to do so". It accordingly requested the Court, "in order to avoid further incidents between the two countries, . . . to determine the course of the maritime boundary between the two States beyond the line fixed in 1975". In order to found the jurisdiction of the Court, the Application relied on the declarations made by the two Parties accepting the jurisdiction of the Court under Article 36, paragraph 2, of the Statute of the Court.

On 6 June 1994, Cameroon filed in the Registry an Additional Application "for the purpose of extending the subject of the dispute" to a further dispute described as "relat[ing] essentially to the question of sovereignty over a part of the territory of Cameroon in the area of Lake Chad". Cameroon also requested the Court, "to specify definitively" the frontier between the two States from Lake Chad to the sea, and asked it to join the two Applications and "to examine the whole in a single case". In order to found the jurisdiction of the Court, the Additional Application referred to the "basis of . . . jurisdiction . . . already . . . indicated" in the Application instituting proceedings of 29 March 1994.

At a meeting which the President of the Court held with the representatives of the Parties on 14 June 1994, the Agent of Nigeria stated that he had no objection to the Additional Application being treated, in accordance with the wish expressed by Cameroon, as an amendment to the initial Application, so that the Court could deal with the whole in a single case. By an Order dated 16 June 1994 (*I.C.J. Reports 1994*, p. 105), the Court indicated that it had no objection itself to such a procedure, and fixed time-limits for the filing of written pleadings.

Cameroon duly filed its Memorial. Within the time-limit fixed for the filing of its Counter-Memorial, Nigeria filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application. Accordingly, by an Order dated 10 January 1996 (*I.C.J. Reports 1996*, p. 3), the President of the Court, noting that, under Article 79, paragraph 3, of the Rules of Court, the proceedings on the merits were suspended, fixed 15 May 1996 as the time-limit within which Cameroon might present a written statement of its observations and submissions on the preliminary objections. Cameroon duly filed such a statement.

Cameroon chose Mr. Kéba Mbaye and Nigeria Mr. Bola Ajibola to sit as judge *ad hoc*.

The Court had further, in response to a request made by Cameroon and after hearing the Parties, indicated certain provisional measures by an Order dated 15 March 1996 (*I.C.J. Reports 1996*, p. 13).

Hearings on the preliminary objections were held between 2 and 11 March 1998.

The requests made by Cameroon in its Application and its Additional Application, as well as the submissions presented by it in its Memorial (cf. paras. 16-18 of the Judgment) have not been reproduced in this summary for the sake of brevity.

The eight objections which Nigeria raised in its preliminary objections and at the hearing of 9 March 1998 (cf. paras. 18 and 19 of the Judgment) have not been reproduced either. The Court's description of the subject of each preliminary objection is to be found in the relevant part of this summary. Cameroon, in its written statement on the objections and at the hearing of 11 March 1998, requested the Court to dismiss the objections or in the alternative to join them to the merits; and to declare that it had jurisdiction to deal with the case and that the Application was admissible.

First preliminary objection (paras. 21-47)

Nigeria's first objection contends that the Court has no jurisdiction to entertain Cameroon's Application.

In this regard, Nigeria notes that it had accepted the Court's compulsory jurisdiction by a declaration dated 14 August 1965, deposited with the Secretary-General of the United Nations on 3 September 1965. Cameroon had also accepted the Court's compulsory jurisdiction by a declaration deposited with the Secretary-General on 3 March 1994. The Secretary-General transmitted copies of the Cameroon Declaration to the parties to the Statute eleven-and-a-half months later. Nigeria maintains, accordingly, that it had no way of knowing, and did not actually know, on the date of the filing of the Application, i.e., 29 March 1994, that Cameroon had deposited a declaration. Cameroon consequently is alleged to have "acted prematurely". By proceeding in this way, the Applicant "is alleged to have violated its obligation to act in good faith", "abused the system instituted by Article 36, paragraph 2, of the Statute" and disregarded "the condition of reciprocity" provided for by that Article and by Nigeria's Declaration. The Court consequently does not have jurisdiction to hear the Application.

In contrast, Cameroon contends that its Application fulfils all the conditions required by the Statute. It notes that in the case concerning *Right of Passage over Indian Territory*, the Court held that

> "the Statute does not prescribe any interval between the deposit by a State of its Declaration of Acceptance and the filing of an Application by that State, and that the principle of reciprocity is not affected by any delay in the receipt of copies of the Declaration by the Parties to the Statute" (*Right of Passage over Indian Territory, Preliminary Objections, Judgment, I.C.J. Reports 1957*, p. 147).

Cameroon indicates that there is no reason not to follow this precedent, at the risk of undermining the system of compulsory jurisdiction provided by the Optional Clause. It adds that the Cameroonian Declaration was in force as early as 3 March 1994, as at that date it was registered in accordance with Article 102 of the United Nations Charter. Cameroon states that in any event Nigeria has acted, since the beginning of these proceedings, in such a way that it should be regarded as having accepted the jurisdiction of the Court.

Nigeria argues in reply that the "case concerning the *Right of Passage over Indian Territory*, was a first impression", that the Judgment given is outdated, and that it is an isolated one; that international law, especially as it relates to good faith, has evolved since and that in accordance with Article 59 of the Statute, that Judgment only has the force of *res judicata* as between the parties and in respect of that case. For these reasons, the solution adopted in 1957 should not be adopted here. Nigeria does not accept the reasoning of Cameroon based on Article 102 of the Charter. Nigeria also contends that there is no question of its having consented to the jurisdiction of the Court in the case and hence there is no *forum prorogatum*.

Cameroon contests each of these arguments.

Quoting the provisions of Article 36, paragraphs 2 and 4, of its Statute, the Court recalls that in the case concerning *Right of Passage over Indian Territory*, it concluded, in the light of these provisions, that:

> "by the deposit of its Declaration of Acceptance with the Secretary-General, the accepting State becomes a Party to the system of the Optional Clause in relation to the other declarant States, with all the rights and obligations deriving from Article 36. The contractual relation between the Parties and the compulsory jurisdiction of the Court resulting there from are established, '*ipso facto* and without special agreement', by the fact of the making of the Declaration . . .

> For it is on that very day that the consensual bond, which is the basis of the Optional Clause, comes into being between the States concerned." (*Right of Passage over Indian Territory, I.C.J. Reports 1957*, p. 146.)

The conclusions thus reached by the Court in 1957 reflect the very essence of the Optional Clause providing for acceptance of the Court's compulsory jurisdiction. Any State party to the Statute, in adhering to the jurisdiction of the Court in accordance with Article 36, paragraph 2, accepts jurisdiction in its relations with States previously having adhered to that clause. At the same time, it makes a standing offer to the other States parties to the Statute which have not yet deposited a declaration of acceptance. The day one of those States accepts that offer by depositing in its turn its declaration of acceptance, the consensual bond is established and no further condition needs to be fulfilled.

Having recalled that its decision in the case concerning *Right of Passage over Indian Territory* has been reaffirmed in subsequent cases, the Court observes that it is true, as argued by Nigeria, that the Court's judgments, in accordance with Article 59 of the Statute, bind only the parties to and in respect of a particular case. There can be no question of holding Nigeria to decisions reached by the Court in previous cases. The real question is whether, in this case, there is cause not to follow the reasoning and conclusions of earlier cases.

After examining the legislative history of the provisions of the Vienna Convention on the Law of Treaties, which Nigeria relies on with regard to its argument that the interpretation given in 1957 to Article 36, paragraph 4, of the Statute should be reconsidered in the light of the evolution of the law of treaties which has occurred since, the Court concludes that the general rule reflected in Articles 16 and 24 of the Vienna Convention, which, the Court observes, may only be applied to declarations accepting the Court's jurisdiction as obligatory by analogy, is that: the deposit of instruments of ratification, acceptance, approval or accession to a treaty establishes the consent of a State to be bound by a treaty; and that the treaty enters into force as regards that State on the day of the deposit. Thus the rules adopted in this sphere by the Vienna Convention correspond to the solution adopted by the Court in the case concerning *Right of Passage over Indian Territory*. That solution should be maintained.

Nigeria maintains however that, in any event, Cameroon could not file an application before the Court without allowing a reasonable period to elapse "as would . . . have enabled the Secretary-General to take the action required of him in relation to Cameroon's Declaration of 3 March 1994". Compliance with that time period is essential, the more so because, according to Nigeria, the Court, in its Judgment of 26 November 1984 in the case concerning *Military and Paramilitary Activities in and against Nicaragua*, required a reasonable time for the withdrawal of declarations under the Optional Clause.

The Court considers that its conclusion in respect of the withdrawal of declarations under the Optional Clause in the Judgment of 1984 is not applicable to the deposit of those declarations. Withdrawal ends existing consensual bonds, while deposit establishes such bonds. The effect of withdrawal is therefore purely and simply to deprive other States which have already accepted the jurisdiction of the Court of the right they had to bring proceedings before it, against the withdrawing State. In contrast, the deposit of a declaration does not deprive those States of any accrued right. Accordingly no time period is required for the establishment of a consensual bond following such a deposit.

Nigeria's second argument is that Cameroon omitted to inform it that it intended to accept the jurisdiction of the Court, then that it had accepted that jurisdiction and, lastly, that it intended to file an application. Nigeria further argued that Cameroon even continued, during the first three months of 1994, to maintain bilateral contacts with it on boundary questions while preparing itself to address the Court. Such conduct, Nigeria contends, infringes upon the principle of good faith which today plays a larger role in the case-law of the Court than before, and should not be accepted.

Cameroon, for its part, argues that it had no obligation to inform Nigeria in advance of its intentions, or of its decisions. It adds that in any event "Nigeria was not at all surprised by the filing of Cameroon's Application and . . . knew perfectly well what Cameroon's intentions were in that regard several weeks before the filing". The principle of good faith was not at all disregarded.

The Court observes that the principle of good faith is a well-established principle of international law. It notes, however, that although that principle is "one of the basic principles governing the creation and performance of legal obligations . . . it is not in itself a source of obligation where none would otherwise exist". There is no specific obligation in international law for States to inform other States parties to the Statute that they intend to subscribe or have subscribed to the Optional Clause. Consequently, Cameroon was not bound to inform Nigeria that it intended to subscribe or had subscribed to the Optional Clause. Cameroon was not bound either to inform Nigeria of its intention to bring proceedings before the Court. In the absence of any such obligations and of any infringement of Nigeria's corresponding rights, Nigeria may not justifiably rely upon the principle of good faith in support of its submissions.

On the facts of the matter, to which the Parties devoted considerable attention, and quite apart from legal considerations, the Court adds that Nigeria was not unaware of Cameroon's intentions. In that connection, the Court refers to a communication from Nigeria to the Security Council, dated 4 March 1994; to the information contained in the *Journal of the United Nations*, issued on that same day; and to statements made at the extraordinary general meeting of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution of the Organization of African Unity of 11 March 1994.

Nigeria recalls in the third place that, by its Declaration deposited on 3 September 1965, it had recognized

> "as compulsory *ipso facto* and without special agreement, in relation to any other State accepting the same obligation, that is to say, on the sole condition of reciprocity, the jurisdiction of the International Court of Justice in conformity with Article 36, paragraph 2, of the Statute of the Court".

Nigeria maintains that on the date on which Cameroon's Application was filed, it did not know that Cameroon had accepted the Court's compulsory jurisdiction. Accordingly it could not have brought an application against Cameroon. There was an absence of reciprocity on that date. The condition contained in the Nigerian Declaration was operative; consequently, the Court does not have jurisdiction to hear the Application.

Cameroon disputes this argument in fact as well as in law. It states that, in the minds of the States parties to the Optional Clause, the condition of reciprocity never possessed the meaning which Nigeria now ascribes to it.

The Court, noting that it has on numerous occasions had to consider what meaning it is appropriate to give to the condition of reciprocity in the implementation of Article 36, paragraph 2, of the Statute, observes that, in the final analysis, the notion of reciprocity is concerned with the scope and substance of the commitments entered into, including reservations, and not with the formal conditions of their creation, duration or extinction; and that, consequently, the principle of reciprocity is not affected by any delay in the receipt of copies of the Declaration by the Parties to the Statute.

The Court considers that Nigeria does not offer evidence in support of its argument that it intended to insert into its Declaration of 14 August 1965 a condition of reciprocity with a different meaning from the one which the Court had drawn from such clauses in 1957. The additional phrase of the pertinent sentence in the Nigerian Declaration, "that is to say, on the sole condition of reciprocity" must be understood as explanatory and not adding any further condition. This interpretation is "in harmony with a natural and reasonable way of reading the text" and Nigeria's condition of reciprocity cannot be treated as a reservation *ratione temporis*.

Nigeria's first preliminary objection is accordingly rejected. The Court observes that it is therefore not called upon to examine the reasoning put forward by Cameroon under Article 102 of the Charter, nor Cameroon's alternative submissions based on *forum prorogatum*. In any event, the Court has jurisdiction to pass upon Cameroon's Application.

Second preliminary objection (paras. 48-60)

Nigeria raises a second preliminary objection stating that

> "for a period of at least 24 years prior to the filing of the Application the Parties have in their regular dealings accepted a duty to settle all boundary questions through the existing bilateral machinery".

According to Nigeria, an implicit agreement is thus said to have been reached with a view to resorting exclusively to such machinery and to refraining from relying on the jurisdiction of the International Court of Justice. In the alternative, Nigeria claims that by its conduct Cameroon is estopped from turning to the Court. Finally, Nigeria invokes the principle of good faith and the rule *pacta sunt servanda* in support of this argument.

Cameroon maintains that the bilateral bodies which dealt with various boundary difficulties that had emerged between the two countries had only been temporary and that no permanent institutional machinery had been set up. It contends that no explicit or implicit agreement had been established between the Parties with a view to vesting exclusive jurisdiction in such bodies. Finally, according to Cameroon, the conditions laid down in the Court's case-law for the application of estoppel to arise were not fulfilled here. Therefore, there was no occasion to apply the principle of good faith and the rule *pacta sunt servanda*.

Reviewing the relevant facts the Court notes that the negotiations between the two States concerning the delimitation or the demarcation of the boundary were carried out in various frameworks and at various levels: Heads of State, Foreign Ministers, experts. The negotiations were active during the period 1970 to 1975 and then were interrupted until 1991.

Turning to legal considerations, the Court then considers the first branch of the Nigerian objection. It recalls that, "negotiation and judicial settlement are enumerated together in Article 33 of the Charter of the United Nations as means for the peaceful settlement of disputes". It observes that neither in the Charter nor otherwise in international law is any general rule to be found to the effect that the exhaustion of diplomatic negotiations constitutes a precondition for a matter to be referred to the Court and that no such precondition was embodied in the Statute of the Permanent Court of International Justice, contrary to a proposal by the Advisory Committee of Jurists in 1920. Nor is it to be found in Article 36 of the Statute of the Court. Neither was a reservation containing a precondition of this type included in the Declarations of Nigeria or Cameroon on the date of the filing of the Application. Moreover, the fact that the two States have attempted to solve some of the boundary issues dividing them during bilateral contacts did not imply that either one had excluded the possibility of bringing any boundary dispute concerning it before other fora, and in particular the International Court of Justice. The first branch of Nigeria's objection accordingly is not accepted.

Turning to the second branch of the objection, the Court then examines whether the conditions laid down in its jurisprudence for an estoppel are present in the instant case.

It observes that an estoppel would only arise if by its acts or declarations Cameroon had consistently made it fully clear that it had agreed to settle the boundary dispute submitted to the Court by bilateral avenues alone. It would further be necessary that, by relying on such an attitude, Nigeria had changed position to its own detriment or had suffered some prejudice. These conditions are not fulfilled in this case. Indeed, Cameroon did not attribute an exclusive character to the negotiations conducted with Nigeria, nor, as far as it appears, did Nigeria. Furthermore, Nigeria does not show that it has changed its position to its detriment or that it has sustained prejudice. In bringing proceedings before the Court, Cameroon did not disregard the legal rules relied on by Nigeria in support of its second objection. Consequently, Nigeria is not justified in relying on the principle of good faith and the rule *pacta sunt servanda*, both of which relate only to the fulfilment of existing obligations. The second branch of Nigeria's objection is not accepted.

The second preliminary objection as a whole is thus rejected.

Third preliminary objection (paras. 61-73)

In its third preliminary objection, Nigeria contends that "the settlement of boundary disputes within the Lake Chad region is subject to the exclusive competence of the Lake Chad Basin Commission".

In support of this argument, Nigeria invokes the treaty texts governing the Statute of the Commission as well as the practice of member States. It argues that "the procedures for settlement by the Commission are binding upon the Parties" and that Cameroon was thus barred from raising the matter before the Court on the basis of Article 36, paragraph 2, of the Statute.

For its part, Cameroon submits to the Court that "no provision of the Statute of the Lake Chad Basin Commission establishes in favour of that international organization any exclusive competence in relation to boundary delimitation". It adds that no such exclusive jurisdiction can be inferred from the conduct of member States.

It is in the light of the treaty texts and the practice that the Court then considers the positions of the Parties on this matter. For its part, Nigeria first of all contends that "the role and Statute of the Commission" must be understood "in the framework of regional agencies" referred to in Article 52 of the United Nations Charter. It accordingly concludes that "the Commission has an exclusive power in relation to issues of security and public order in the region of Lake Chad and that these issues appropriately encompass the business of boundary demarcation".

Cameroon argues, for its part, that the Commission does not constitute a regional arrangement or agency within the meaning of Article 52 of the Charter, pointing in particular to the fact that

> "there has never been any question of extending this category to international regional organizations of a technical nature which, like

> the [Commission], can include a mechanism for the peaceful settlement of disputes or for the promotion of that kind of settlement".

The Court concludes from its analysis of the treaty texts and the practice of Member States that the Lake Chad Basin Commission is an international organization exercising its powers within a specific geographical area; that it does not however have as its purpose the settlement at a regional level of matters relating to the maintenance of international peace and security and thus does not fall under Chapter VIII of the Charter.

However, even were it otherwise, Nigeria's argument to that effect should nonetheless be set aside, because the existence of procedures for regional negotiation whatever their nature, cannot prevent the Court from exercising the functions conferred upon it by the Charter and the Statute. The contention of Nigeria that the Commission should be seen as a tribunal falling under the provisions of Article 95 of the United Nations Charter must also be set aside.

The Court further concludes that the Commission has never been given jurisdiction, and *a fortiori* exclusive jurisdiction, to rule on the territorial dispute now involving Cameroon and Nigeria before the Court, a dispute which moreover did not as yet exist in 1983. It points out in addition that the conditions laid down in its case-law for an estoppel to arise, as set out above, are not fulfilled in this case. Indeed, Cameroon has not accepted that the Commission has jurisdiction to settle the boundary dispute now submitted to the Court.

In the alternative, Nigeria finally argues that, on account of the demarcation under way in the Lake Chad Basin Commission, the Court "cannot rule out the consideration of the need for judicial restraint on grounds of judicial propriety" and should decline to rule on the merits of Cameroon's Application.

It is not for the Court at this stage to rule upon the opposing arguments brought forward by the Parties in this respect. It need only note that Nigeria cannot assert both that the demarcation procedure initiated within the Lake Chad Commission was not completed and that, at the same time, that procedure rendered Cameroon's submissions moot. There is thus no reason of judicial propriety which should make the Court decline to rule on the merits of those submissions.

In the light of the above considerations, the Court rejects Nigeria's third preliminary objection.

Fourth preliminary objection (paras. 74-83)

The Court then turns to the fourth preliminary objection raised by Nigeria. This objection contends that:

> "The Court should not in these proceedings determine the boundary in Lake Chad to the extent that that boundary constitutes or is constituted by the tripoint in the Lake."

Nigeria holds that the location of the tripoint within Lake Chad directly affects a third State, the Republic of Chad, and that the Court therefore cannot determine this tripoint.

The Court recalls that it has always acknowledged as one of the fundamental principles of its Statute that no dispute between States can be decided without their consent to its jurisdiction. Nevertheless, the Court has also emphasized that it is not necessarily prevented from adjudicating when the judgment it is asked to give might affect the legal interests of a State which is not a party to the case; and the Court has only declined to exercise jurisdiction when the interests of the third State constitute the very subject-matter of the judgment to be rendered on the merits.

The Court observes that the submissions presented to it by Cameroon refer to the frontier between Cameroon and Nigeria and to that frontier alone. They do not refer to the frontier between Cameroon and the Republic of Chad. Certainly, the request to "specify definitively the frontier between Cameroon and the Federal Republic of Nigeria from Lake Chad to the sea" (para. 17 *(f)* of the Additional Application) may affect the tripoint, i.e., the point where the frontiers of Cameroon, Chad and Nigeria meet. However, the request to specify the frontier between Cameroon and Nigeria from Lake Chad to the sea does not imply that the tripoint could be moved away from the line constituting the Cameroon-Chad boundary. Neither Cameroon nor Nigeria contests the current course of that boundary in the centre of Lake Chad as it is described in the "technical document on the demarcation of the ... boundaries" mentioned in paragraph 65 of the Judgment. Incidents between Nigeria and Chad in the Lake, as referred to by Nigeria, concern Nigeria and Chad but not Cameroon or its boundary with Chad. Any redefinition of the point where the frontier between Cameroon and Nigeria meets the Chad-Cameroon frontier could in the circumstances only lead to a moving of the tripoint along the line of the frontier in the Lake between Chad and Cameroon. Thus, the legal interests of Chad as a third State not party to the case do not constitute the very subject-matter of the judgment to be rendered on the merits of Cameroon's Application; and, therefore, the absence of Chad does not prevent the Court from proceeding to a specification of the border between Cameroon and Nigeria in the Lake.

The fourth preliminary objection is accordingly rejected.

Fifth preliminary objection (paras. 84-94)

In its fifth preliminary objection Nigeria alleges that there is no dispute concerning "boundary delimitation as such" throughout the whole length of the boundary from the tripoint in Lake Chad to the sea, subject, within Lake Chad, to the question of the title over Darak and adjacent islands, and without prejudice to the title over the Bakassi Peninsula.

The Court recalls that, in the sense accepted in its jurisprudence and that of its predecessor, a dispute is a disagreement on a point of law or fact, a conflict of legal views or interests between parties; and that, in order to establish the existence of a dispute, it must be shown that the claim of one party is positively opposed by the other and further, that whether there exists an international dispute is a matter for objective determination.

On the basis of these criteria, there can be no doubt about the existence of disputes with respect to Darak and adjacent islands, the village of Tipsan, as well as the Peninsula of Bakassi. This latter dispute, as indicated by Cameroon, might have a bearing on the maritime boundary between the two Parties.

All of these disputes concern the boundary between Cameroon and Nigeria. However, given the great length of that boundary, which runs over more than 1,600 km from Lake Chad to the sea, it cannot be said that these disputes in themselves concern so large a portion of the boundary that they would necessarily constitute a dispute concerning the whole of the boundary. Even taken together with the existing boundary disputes, the incidents and incursions reported by Cameroon do not establish by themselves the existence of a dispute concerning all of the boundary between Cameroon and Nigeria.

However, the Court notes that Nigeria has constantly been reserved in the manner in which it has presented its own position on the matter. Although Nigeria knew about Cameroon's preoccupation and concerns, it has repeated, and has not gone beyond, the statement that there is no dispute concerning "boundary delimitation as such". Nigeria has shown the same caution in replying to the question asked by a Member of the Court in the oral proceedings, as to whether Nigeria's assertion that there is no dispute as regards the land boundary between the two States (subject to the existing problems in the Bakassi Peninsula and the Darak region) signifies,

> "that, these two sectors apart, there is agreement between Nigeria and Cameroon on the geographical co-ordinates of this boundary as they result from the texts relied on by Cameroon in its Application and its Memorial".

The Court notes that, in its reply, Nigeria does not indicate whether or not it agrees with Cameroon on the course of the boundary or on its legal basis, though clearly it does differ with Cameroon about Darak and adjacent islands, Tipsan and Bakassi. Nigeria states that the existing land boundary is not described by reference to geographical co-ordinates but by reference to physical features. As to the legal basis on which the boundary rests, Nigeria refers to "relevant instruments" without specifying which these instruments are apart from saying that they pre-date independence and that, since independence, no bilateral agreements "expressly confirming or otherwise describing the pre-independence boundary by reference to geographical co-ordinates" have been concluded between the Parties. That wording seems to suggest that the existing instruments may require confirmation. Moreover, Nigeria refers to "well-established practice both before and after independence" as one of the legal bases of the boundary whose course, it states, "has continued to be accepted in practice"; however, it does not indicate what that practice is.

The Court points out that Nigeria is entitled not to advance arguments that it considers are for the merits at the present stage of the proceedings; in the circumstances however, the Court finds itself in a situation in which it cannot decline to examine the submission of Cameroon which aims at a definitive determination of its boundary with Nigeria from Lake Chad to the sea on the ground that there is no dispute between the two States. Because of Nigeria's position, the exact scope of this dispute cannot be determined at present; a dispute nevertheless exists between the two Parties, at least as regards the legal bases of the boundary. It is for the Court to pass upon this dispute.

The fifth preliminary objection raised by Nigeria is thus rejected.

Sixth preliminary objection (paras. 95-102)

The Court then turns to Nigeria's sixth preliminary objection which is to the effect that there is no basis for a judicial determination that Nigeria bears international responsibility for alleged frontier incursions.

Nigeria contends that the submissions of Cameroon do not meet the standard required by Article 38 of the Rules of Court and general principles of law regarding the adequate presentation of facts on which Cameroon's request is based, including dates, the circumstances and precise locations of the alleged incursions and incidents into and on Cameroonian territory. Nigeria maintains that what Cameroon has presented to the Court does not give Nigeria the knowledge which it needs and to which it is entitled in order to prepare its reply. Similarly, in Nigeria's view, the material submitted is so sparse that it does not enable the Court to carry out fair and effective judicial determination of, or make determination on, the issues of State responsibility and reparation raised by Cameroon. While Nigeria acknowledges that a State has some latitude in expanding later on what it has said in its Application and in its Memorial, Cameroon is said to be essentially restricted in its elaboration to the case as presented in its Application.

Cameroon insists that it stated clearly in its pleadings that the facts referred to in order to establish Nigeria's responsibility were only of an indicative nature and that it could, where necessary, amplify those facts when it comes to the merits. Cameroon refers to the requirements established in Article 38, paragraph 2, of the Rules and which call for a "succinct" presentation of the facts. It holds that parties are free to develop the facts of the case presented in the application or to render them more precise in the course of the proceedings.

The Court observes that the decision on Nigeria's sixth preliminary objection hinges upon the question of whether the requirements which an application must meet and which are set out in Article 38, paragraph 2, of the Rules of Court are met in the present instance. The requirements set out in Article 38, paragraph 2, are that the application shall "specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based". The Court notes that "succinct", in the ordinary meaning to be given to this term, does not mean "complete" and neither the context in which the term is used in Article 38, paragraph 2, of the Rules of Court nor the object and purpose of that provision indicate that it should be interpreted in that way. Article 38, paragraph 2, does therefore not preclude later additions to the statement of the facts and grounds on which a claim is based. Nor does it provide that the latitude of an applicant State, in developing what it has said in its application is strictly limited, as suggested by Nigeria.

As regards the meaning to be given to the term "succinct", the Court would simply note that Cameroon's Application contains a sufficiently precise statement of the facts and grounds on which the Applicant bases its claim. That statement fulfils the conditions laid down in Article 38, paragraph 2, and the Application is accordingly admissible.

Lastly, the Court cannot agree that the lack of sufficient clarity and completeness in Cameroon's Application and its inadequate character, as perceived by Nigeria, make it impossible for Nigeria to respond effectively to the allegations which have been presented or makes it impossible for the Court ultimately to make a fair and effective determination in the light of the arguments and the evidence then before it. It is the applicant which must bear the consequences of an application that gives an inadequate rendering of the facts and grounds on which the claim is based.

The Court consequently rejects the sixth preliminary objection raised by Nigeria.

Seventh preliminary objection (paras. 103-111)

In its seventh preliminary objection Nigeria contends that there is no legal dispute concerning delimitation of the maritime boundary between the two Parties which is at the present time appropriate for resolution by the Court.

Nigeria says that this is so for two reasons: in the first place, no determination of a maritime boundary is possible prior to the determination of title in respect of the Bakassi Peninsula. Secondly, at the juncture when there is a determination of the question of title over the Bakassi Peninsula, the issues of maritime delimitation will not be admissible in the absence of prior sufficient action by the Parties, on a footing of equality, to effect a delimitation "by agreement on the basis of international law".

The Court initially addresses the first argument presented by Nigeria. The Court accepts that it will be difficult if not impossible to determine the delimitation of the maritime boundary between the Parties as long as the title over the Peninsula of Bakassi has not been determined. Since both questions are before the Court, it becomes a matter for the Court to arrange the order in which it addresses the issues in such a way that it can deal substantively with each of them. That is a matter which lies within the Court's discretion and which cannot be the basis of a preliminary objection. This argument therefore has to be dismissed.

As to the second argument of Nigeria, the Court recalls that, in dealing with the cases brought before it, it must adhere to the precise request submitted to it. What is in dispute between the Parties and what the Court has to decide now is whether the alleged absence of sufficient effort at negotiation constitutes an impediment for the Court to accept Cameroon's claim as admissible or not. This matter is of a genuinely preliminary character and has to be decided under Article 79 of the Rules of Court.

In this connection, Cameroon and Nigeria refer to the United Nations Convention on the Law of the Sea, to which they are parties.

However, the Court notes that, in this case, it has not been seised on the basis of Article 36, paragraph 1, of the Statute, and, in pursuance of it, in accordance with Part XV of the United Nations Convention on the Law of the Sea relating to the settlement of disputes arising between the parties to the Convention with respect to its interpretation or application. It has been seised on the basis of declarations made under Article 36, paragraph 2, of the Statute, which declarations do not contain any condition relating to prior negotiations to be conducted within a reasonable time period. The second argument of Nigeria cannot therefore be upheld.

The Court finds in addition that, beyond point G (cf. point (3) of the submissions in Cameroon's Memorial), the dispute between the Parties has been defined with sufficient precision for the Court to be validly seised of it.

It therefore rejects the seventh preliminary objection.

Eighth preliminary objection (paras. 112-117)

The Court then deals with the eighth and last of the preliminary objections presented by Nigeria. With that objection Nigeria contends, in the context of and supplementary to the seventh preliminary objection, that the question of maritime delimitation necessarily involves the rights and interests of third States and is to that extent inadmissible.

The Court notes, as do the Parties, that the problem of rights and interests of third States arises only for the prolongation, as requested by Cameroon, of the maritime boundary seawards beyond point G.

What the Court has to examine under the eighth preliminary objection is therefore whether that prolongation would involve rights and interests of third States and whether that would prevent it from proceeding to such prolongation. The Court notes that from the geographical location of the territories of the other States bordering the Gulf of Guinea, and in particular Equatorial Guinea and Sao Tome and Principe, it appears that rights and interests of third States will become involved if the Court accedes to Cameroon's request. The Court recalls that it has affirmed that one of the fundamental principles of its Statute is that it cannot decide a dispute between States without the consent of those States to its jurisdiction. However, it has also stated that it is not necessarily prevented from adjudicating when the judgment it is asked to give might affect the legal interests of a State which is not a party to the case.

The Court cannot therefore, in the present case, give a decision on the eighth preliminary objection as a preliminary matter. In order to determine where a prolonged maritime boundary beyond point G would run, where and to what extent it would meet possible claims of other States, and how its judgment would affect the rights and interests of these States, the Court would of necessity have to deal with the merits of Cameroon's request. At the same time, the Court cannot rule out the possibility that the impact of the judgment required by Cameroon on the rights and interests of the third States could be such that the Court would be prevented from rendering it in the absence of these States, and that consequently Nigeria's eighth preliminary objection would have to be upheld at least in part. Whether such third States would choose to exercise their rights to intervene in these proceedings pursuant to the Statute remains to be seen.

The Court concludes that therefore the eighth preliminary objection of Nigeria does not possess, in the circumstances of the case, an exclusively preliminary character.

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Operative paragraph (para. 118)

"For these reasons,

THE COURT,

(1) *(a)* By fourteen votes to three,

Rejects the first preliminary objection;

IN FAVOUR: *President* Schwebel; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Vice-President* Weeramantry; *Judge* Koroma; *Judge* ad hoc Ajibola;

(b) By sixteen votes to one,

Rejects the second preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judges* ad hoc Mbaye, Ajibola;

AGAINST: *Judge* Koroma;

(c) By fifteen votes to two,

Rejects the third preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judge* Koroma; *Judge* ad hoc Ajibola;

(d) By thirteen votes to four,

Rejects the fourth preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Kooijmans, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judges* Oda, Koroma, Parra-Aranguren; *Judge* ad hoc Ajibola;

(e) By thirteen votes to four,

Rejects the fifth preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judges* Oda, Koroma, Vereshchetin; *Judge* ad hoc Ajibola;

(f) By fifteen votes to two,

Rejects the sixth preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judge* Koroma; *Judge* ad hoc Ajibola;

(g) By twelve votes to five,

Rejects the seventh preliminary objection;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Parra-Aranguren, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judges* Oda, Koroma, Higgins, Kooijmans; *Judge* ad hoc Ajibola;

(2) By twelve votes to five,

Declares that the eighth preliminary objection does not have, in the circumstances of the case, an exclusively preliminary character;

IN FAVOUR: *President* Schwebel; *Vice-President* Weeramantry; *Judges* Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Parra-Aranguren, Rezek; *Judge* ad hoc Mbaye;

AGAINST: *Judges* Oda, Koroma, Higgins, Kooijmans; *Judge* ad hoc Ajibola;

(3) By fourteen votes to three,

Finds that, on the basis of Article 36, paragraph 2, of the Statute, it has jurisdiction to adjudicate upon the dispute;

IN FAVOUR: ***President*** Schwebel; ***Judges*** Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; ***Judge*** ad hoc Mbaye;

AGAINST: ***Vice-President*** Weeramantry; ***Judge*** Koroma; ***Judge*** ad hoc Ajibola;

(4) By fourteen votes to three,

Finds that the Application filed by the Republic of Cameroon on 29 March 1994, as amended by the Additional Application of 6 June 1994, is admissible.

IN FAVOUR: ***President*** Schwebel; ***Judges*** Oda, Bedjaoui, Guillaume, Ranjeva, Herczegh, Shi, Fleischhauer, Vereshchetin, Higgins, Parra-Aranguren, Kooijmans, Rezek; ***Judge*** ad hoc Mbaye;

AGAINST: ***Vice-President*** Weeramantry; ***Judge*** Koroma; ***Judge*** ad hoc Ajibola."

*

Judges Oda, Vereshchetin, Higgins, Parra-Aranguren and Kooijmans appended separate opinions to the Judgment of the Court (*I.C.J. Reports 1998*, pp. 328-341, 342-344, 345-349, 350-353 and 354-361); Vice-President Weeramantry, Judge Koroma and Judge *ad hoc* Ajibola appended dissenting opinions (*ibid.*, pp. 362-376, 377-391 and 392-418).

*

By an Order of 30 June 1998 (*I.C.J. Reports 1998*, p. 420), the Court, having been informed of the views of the Parties, fixed 31 March 1999 as the time-limit for the filing of the Counter-Memorial of Nigeria.

8. Fisheries Jurisdiction (Spain v. *Canada)*

On 28 March 1995 the Kingdom of Spain filed in the Registry of the Court an Application instituting proceedings against Canada with respect to a dispute relating to the Canadian Coastal Fisheries Protection Act, as amended on 12 May 1994, and to the implementing regulations of that Act, as well as to certain measures taken on the basis of that legislation, more particularly the boarding on the high seas, on 9 March 1995, of a fishing boat, the *Estai*, sailing under the Spanish flag.

The Application indicated, *inter alia*, that by the amended Act "an attempt was made to impose on all persons on board foreign ships a broad prohibition on fishing in the NAFO [Northwest Atlantic Fisheries

Organization] Regulatory Area – that is, on the high seas, outside Canada's exclusive economic zone"; that the Act "expressly permits (Art. 8) the use of force against foreign fishing boats in the zones that Article 2.1 unambiguously terms the 'high seas' "; that the rules of application of 25 May 1994 provided, in particular, for "the use of force by fishery protection officers against the foreign fishing boats covered by those regulations . . . which infringe their mandates in the zone of the high seas within the scope of those regulations"; and that the implementing regulations of 3 March 1995 "expressly permit . . . such conduct as regards Spanish and Portuguese ships on the high seas".

The Application alleged the violation of various principles and norms of international law and stated that there was a dispute between the Kingdom of Spain and Canada which, going beyond the framework of fishing, seriously affected the very principle of the freedom of the high seas and, moreover, implied a very serious infringement of the sovereign rights of Spain.

As a basis of the Court's jurisdiction, the Applicant referred to the declarations of Spain and of Canada made in accordance with Article 36, paragraph 2, of the Statute of the Court.

In that regard, the Application specified that:

> "The exclusion of the jurisdiction of the Court in relation to disputes which may arise from management and conservation measures taken by Canada with respect to vessels fishing in the NAFO Regulatory Area and the enforcement of such measures (Declaration of Canada, para. 2 *(d)*, introduced as recently as 10 May 1994, two days prior to the amendment of the Coastal Fisheries Protection Act), does not even partially affect the present dispute. Indeed, the Application of the Kingdom of Spain does not refer exactly to the disputes concerning those measures, but rather to their origin, to the Canadian legislation which constitutes their frame of reference. The Application of Spain directly attacks the title asserted to justify the Canadian measures and their actions to enforce them, a piece of legislation which, going a great deal further than the mere management and conservation of fishery resources, is in itself an internationally wrongful act of Canada, as it is contrary to the fundamental principles and norms of international law; a piece of legislation which for that reason does not fall exclusively within the jurisdiction of Canada either, according to its own Declaration (para. 2 *(c)* thereof). Moreover, only as from 3 March 1995 has an attempt been made to extend that legislation, in a discriminatory manner, to ships flying the flags of Spain and Portugal, which has led to the serious offences against international law set forth above."

While expressly reserving the right to modify and extend the terms of the Application, as well as the grounds invoked, and the right to request the appropriate provisional measures, the Kingdom of Spain requested:

"(A) that the Court declare that the legislation of Canada, in so far as it claims to exercise a jurisdiction over ships flying a foreign flag on the high seas, outside the exclusive economic zone of Canada, is not opposable to the Kingdom of Spain;

(B) that the Court adjudge and declare that Canada is bound to refrain from any repetition of the acts complained of, and to offer to the Kingdom of Spain the reparation that is due, in the form of an indemnity the amount of which must cover all the damages and injuries occasioned; and

(C) that, consequently, the Court declare also that the boarding on the high seas, on 9 March 1995, of the ship *Estai* flying the flag of Spain, and the measures of coercion and the exercise of jurisdiction over that ship and over its captain constitute a concrete violation of the aforementioned principles and norms of international law."

By a letter dated 21 April 1995, the Ambassador of Canada to the Netherlands informed the Court that, in the view of his Government, the Court manifestly lacked jurisdiction to deal with the Application filed by Spain by reason of paragraph 2 *(d)* of the Declaration, dated 10 May 1994, whereby Canada accepted the compulsory jurisdiction of the Court.

Taking into account an agreement concerning the procedure reached between the Parties at a meeting with the President of the Court, held on 27 April 1995, the President, by an Order of 2 May 1995 (*I.C.J. Reports 1995*, p. 87), decided that the written proceedings should first be addressed to the question of the jurisdiction of the Court to entertain the dispute and fixed 29 September 1995 as the time-limit for the filing of the Memorial of the Kingdom of Spain and 29 February 1996 for the filing of the Counter-Memorial of Canada. The Memorial and Counter-Memorial were filed within the prescribed time-limits.

Spain chose Mr. Santiago Torres-Bernárdez and Canada the Honourable Marc Lalonde to sit as judges *ad hoc*.

The Spanish Government subsequently expressed its wish to be authorized to file a Reply; the Canadian Government opposed this. By an Order of 8 May 1996 (*I.C.J. Reports 1996*, p. 58), the Court, considering that it was "sufficiently informed, at this stage, of the contentions of fact and law on which the Parties rely with respect to its jurisdiction in the case and whereas the presentation by them of other written pleadings on that question therefore does not appear necessary", decided by fifteen votes to two, not to authorize the filing of a Reply by the Applicant and a Rejoinder by the Respondent on the question of jurisdiction.

Judge Vereshchetin and Judge *ad hoc* Torres-Bernárdez voted against; the latter appended a dissenting opinion to the Order (*I.C.J. Reports 1996*, p. 61).

Public sittings to hear the oral arguments of the Parties on the question of the jurisdiction of the Court were held between 9 and 17 June 1998.

At the time of preparation of this Report, the Court is deliberating on its Judgment.

9. Kasikili/Sedudu Island (Botswana/Namibia)

On 29 May 1996 the Government of the Republic of Botswana and the Government of the Republic of Namibia notified jointly to the Registrar of the Court a Special Agreement between the two States signed at Gaborone on 15 February 1996 and which came into force on 15 May 1996, for the submission to the Court of the dispute existing between them concerning the boundary around Kasikili/Sedudu Island and the legal status of that island.

The Special Agreement refers to a Treaty between Great Britain and Germany respecting the spheres of influence of the two countries, signed on 1 July 1890, and to the appointment, on 24 May 1992, of a Joint Team of Technical Experts "to determine the boundary between Namibia and Botswana around Kasikili/Sedudu Island" on the basis of that Treaty and of the applicable principles of international law. Unable to reach a conclusion on the question the Joint Team of Technical Experts recommended "recourse to the peaceful settlement of the dispute on the basis of the applicable rules and principles of international law". At the Summit Meeting held in Harare, Zimbabwe, on 15 February 1995, President Masire of Botswana and President Nujoma of Namibia agreed "to submit the dispute to the International Court of Justice for a final and binding determination".

Under the terms of the Special Agreement, the Parties ask the Court to

> "determine, on the basis of the Anglo-Germany Treaty of 1 July 1890 and the rules and principles of international law, the boundary between Namibia and Botswana around Kasikili/Sedudu Island and the legal status of the island".

By an Order of 24 June 1996 (*I.C.J. Reports 1996*, p. 63), the Court fixed 28 February and 28 November 1997 respectively as the time-limits for the filing by each of the Parties of a Memorial and a Counter-Memorial. A Memorial and a Counter-Memorial were filed by each of the Parties within the prescribed time-limits.

In a joint letter dated 16 February 1998 the Parties requested further written pleadings pursuant to Article II, paragraph 2 *(c)*, of the Special Agreement, which provides, in addition to the Memorials and Counter-Memorials, for "such other pleadings as may be approved by the Court at the request of either of the Parties, or as may be directed by the Court".

By an Order of 27 February 1998 (*I.C.J. Reports 1998*, p. 6), the Court, taking into account the agreement between the Parties, fixed 27 November 1998 as the time-limit for the filing of a Reply by each of the Parties.

10. Vienna Convention on Consular Relations (Paraguay v. *United States of America)*

On 3 April 1998 the Republic of Paraguay filed in the Registry of the Court an Application instituting proceedings against the United States of America in a dispute concerning alleged violations of the Vienna Convention on Consular Relations of 24 April 1963. Paraguay based the jurisdiction of the Court on Article 36, paragraph 1, of the Court's Statute and on Article I of the Optional Protocol concerning the Compulsory Settlement of Disputes which accompanies the Vienna Convention on Consular Relations, and which provides that "disputes arising out of the interpretation or application of the Convention shall lie within the compulsory jurisdiction of the International Court of Justice".

In the Application it was stated that in 1992 the authorities of the Commonwealth of Virginia had arrested a Paraguayan national, Mr. Angel Francisco Breard; that he had been charged, tried, convicted of culpable homicide and sentenced to death by a Virginia court (the Circuit Court of Arlington County) in 1993, without having been informed, as is required under Article 36, subparagraph 1 *(b)*, of the Vienna Convention, of his rights under that provision; it was specified that among these rights were the right to request that the relevant consular office of the State of which he was a national be advised of his arrest and detention and the right to communicate with that office; it was further alleged that the authorities of the Commonwealth of Virginia also had not advised the Paraguayan consular officers of Mr. Breard's detention, and that those officers had only been able to render assistance to him from 1996, when the Paraguayan Government had learnt by its own means that Mr. Breard had been imprisoned in the United States.

Paraguay further stated that Mr. Breard's subsequent petitions before federal courts in order to seek a writ of *habeas corpus* had failed, the federal court of first instance having, on the basis of the doctrine of "procedural default", denied him the right to invoke the Vienna Convention for the first time before that court, and the intermediate federal appellate court having confirmed that decision; that consequently, the Virginia court that sentenced Mr. Breard to the death penalty had set an execution date of 14 April 1998; that Mr. Breard, having exhausted all means of legal recourse available to him as of right, had petitioned the United States Supreme Court for a writ of *certiorari*, requesting it to exercise its discretionary power to review the decision given by the lower federal courts and to grant a stay of his execution pending that review, and that, while this request was still pending before the Supreme Court, it was however rare for that Court to accede to such requests; Paraguay stated, moreover, that it brought proceedings itself before the federal courts of the United States as early as 1996, with a view to obtaining the annulment of the proceedings initiated against Mr. Breard, but both the federal court of first instance and the federal appellate court held that they had no jurisdiction in the case because it was barred by a doctrine conferring "sovereign immunity" on federated states; that Paraguay had also filed a petition for a writ of *certiorari* in the Supreme Court, which was also still pending; and that Paraguay had furthermore engaged in diplomatic efforts with the Government of the United States and sought the good offices of the Department of State;

Paraguay maintained that by violating its obligations under Article 36, subparagraph 1 *(b)*, of the Vienna Convention, the United States had prevented Paraguay from exercising the consular functions provided for in Articles 5 and 36 of the Convention and specifically for ensuring the protection of its interests and of those of its nationals in the United States; Paraguay stated that it had not been able to contact Mr. Breard nor to offer him the necessary assistance, and that accordingly Mr. Breard had "made a number of objectively unreasonable decisions during the criminal proceedings against him, which were conducted without translation"; and had not comprehended "the fundamental differences between the criminal justice systems of the United States and Paraguay"; Paraguay concluded from this that it was entitled to *restitutio in integrum*, that is to say "the re-establishment of the situation that existed before the United States failed to provide the notifications . . . required by the Convention";

Paraguay requested the Court to adjudge and declare as follows:

> "(1) that the United States, in arresting, detaining, trying, convicting, and sentencing Angel Francisco Breard, as described in the preceding statement of facts, violated its international legal obligations to Paraguay, in its own right and in the exercise of its right of diplomatic protection of its national, as provided by Articles 5 and 36 of the Vienna Convention;
>
> (2) that Paraguay is therefore entitled to *restitutio in integrum*;
>
> (3) that the United States is under an international legal obligation not to apply the doctrine of 'procedural default', or any other doctrine of its internal law, so as to preclude the exercise of the rights accorded under Article 36 of the Vienna Convention; and
>
> (4) that the United States is under an international legal obligation to carry out in conformity with the foregoing international legal obligations any future detention of or criminal proceedings against Angel Francisco Breard or any other Paraguayan national in its territory, whether by a constituent, legislative, executive, judicial or other power, whether that power holds a superior or a subordinate position in the organization of the United States, and whether that power's functions are of an international or internal character;
>
> and that, pursuant to the foregoing international legal obligations,

> (1) any criminal liability imposed on Angel Francisco Breard in violation of international legal obligations is void, and should be recognized as void by the legal authorities of the United States;
>
> (2) the United States should restore the *status quo ante*, that is, re-establish the situation that existed before the detention of, proceedings against, and conviction and sentencing of Paraguay's national in violation of the United States' international legal obligations took place; and
>
> (3) the United States should provide Paraguay a guarantee of the non-repetition of the illegal acts".

On the same day, 3 April 1998, Paraguay "in view of the extreme gravity and immediacy of the threat that the authorities . . . will execute a Paraguayan citizen", submitted an urgent request for the indication of provisional measures, asking that, pending final judgment in the case, the Court indicate:

> "*(a)* that the Government of the United States take the measures necessary to ensure that Mr. Breard not be executed pending the disposition of this case;
>
> *(b)* that the Government of the United States report to the Court the actions it has taken in pursuance of subparagraph (*a*) immediately above and the results of those actions; and
>
> *(c)* that the Government of the United States ensure that no action is taken that might prejudice the rights of the Republic of Paraguay with respect to any decision this Court may render on the merits of the case."

By identical letters dated 3 April 1998, the Vice-President of the Court, Acting President, addressed both Parties in the following terms:

> "Exercising the functions of the presidency in terms of Articles 13 and 32 of the Rules of Court, and acting in conformity with Article 74, paragraph 4, of the said Rules, I hereby draw the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects";

At a meeting held the same day with the representatives of both Parties, he advised them that the Court would hold public hearings on 7 April 1998 at 10 a.m., in order to afford the Parties the opportunity of presenting their observations on the request for provisional measures.

After those hearings had been held, the Vice-President of the Court, Acting President, at a public sitting of 9 April 1998, read the Order on the request for provisional measures made by Paraguay (*I.C.J. Reports 1998*, p. 248), the operative paragraph of which reads as follows:

"For these reasons,

THE COURT,

Unanimously,

I. *Indicates* the following provisional measures:

The United States should take all measures at its disposal to ensure that Angel Francisco Breard is not executed pending the final decision in these proceedings, and should inform the Court of all the measures which it has taken in implementation of this Order;

II. *Decides*, that, until the Court has given its final decision, it shall remain seised of the matters which form the subject-matter of this Order."

*

President Schwebel and Judges Oda and Koroma appended declarations to the Order of the Court (*I.C.J. Reports 1998*, pp. 259, 260-262 and 263-264).

*

By an Order of the same day, 9 April 1998 (*I.C.J. Reports 1998*, p. 266), the Vice-President of the Court, Acting President, taking into account the Court's Order on provisional measures, in which it is stated that "it is appropriate that the Court, with the co-operation of the Parties, ensure that any decision on the merits be reached with all possible expedition" and a subsequent agreement between the Parties, fixed 9 June 1998 as the time-limit for the Memorial of Paraguay and 9 September 1998 for the Counter-Memorial of the United States.

In response to a request from Paraguay made in the light of the execution of Mr. Breard, and taking into account an agreement on extension of time-limits reached by the Parties, the Vice-President, Acting President, by an Order of 8 June 1998 (*I.C.J. Reports 1998*, p. 272), extended the above-mentioned time-limits to 9 October 1998 and 9 April 1999 respectively.

II. APPLICATION OF THE STATUTE AND RULES OF COURT

1. Organization of the Court

(a) *The Presidency*

(Statute, Art. 48; Rules, Arts. 13, 31, 32, 44, 48 and 74, paras. 3 and 4)

At the request of Bosnia and Herzegovina and taking into account the views expressed by Yugoslavia, the President, in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*, made an

Order extending the time-limits for the Reply of Bosnia and Herzegovina and the Rejoinder of Yugoslavia, which the Court had fixed in an earlier Order dealing with the counter-claims submitted by Yugoslavia in its Counter-Memorial (see above, p. 203, and below, p. 261 under *(j)*).

In the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* and concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, the President, being a national of one of the Parties, was unable, by virtue of Article 32, paragraph 1, of the Rules of Court, to exercise the functions of the Presidency. Although that provision was not applicable in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)*, the President thought it appropriate not to exercise the functions of the Presidency in that case either. In accordance with Article 13, paragraph 1, of the Rules, the Vice-President exercised those functions.

It was therefore the Vice-President, Acting President, who, at the request of Iran and taking into account the views expressed by the United States, made an Order in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)* extending the time-limits for the Reply of Iran and the Rejoinder of the United States which the Court had fixed in an earlier Order, dealing with the counter-claim submitted by the United States in its Counter-Memorial (see above, p. 193, and below, p. 261, under *(j)*).

In the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* the Vice-President, Acting President, made Orders fixing and extending the time-limits for the Memorial of Paraguay and the Counter-Memorial of the United States (see above, p. 249).

The President, in the case concerning the *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*, and the Vice-President, Acting President, in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, fixed time-limits for the submission of the Applicant's observations on the admissibility of the Respondent's counter-claim(s) at meetings they had convened with the Agents of the Parties. On several other occasions they convened meetings with the Agents of Parties in cases before the Court in order to ascertain their views on questions of procedure.

(b) *Judges* ad hoc

(Statute, Arts. 20 and 31; Rules, Arts. 4, 8, 35 and 37)

Following the resignation of the judge *ad hoc* chosen by Bahrain in the case concerning the *Maritime Delimitation and Territorial Questions* *between Qatar and Bahrain*, that State chose another person to sit as judge *ad hoc* (see above, p. 168).

As the Member of the Court having United Kingdom nationality had asked to be excused from taking part in the decision of the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* (cf. *I.C.J. Yearbook 1995-1996*, p. 224, under *(d)*), the United Kingdom, referring to Article 31 of the Statute and Article 37 of the Rules of Court, informed the Court of its intention to choose a judge *ad hoc* in the case. In accordance with Article 35, paragraph 3, of the Rules of Court a copy of that letter was communicated by the Registrar to the Libyan Government, which was informed that 7 April 1997 had been fixed as the time-limit within which Libya could make any observations it might wish to make. No observations from the Libyan Government reached the Court within the time-limit thus fixed. Having regard to the proceedings instituted by Libya against the United States of America on 3 March 1992 in the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, and to its composition in that case in which a judge having United States nationality was sitting, in accordance with Article 31, paragraph 1, of the Statute, the Court instructed the Registrar to inform Libya and the United Kingdom, and the United States of America, that it was prepared to accept from them, no later than 30 June 1997, any observations they might wish to make in respect of the application of Article 31, paragraph 5, of the Statute. The Registrar wrote to the three States on 30 May 1997 to that effect. Each of the three Governments submitted observations within the prescribed time-limit. After due deliberation, the Court, by ten votes to three, decided that in the phase relating to jurisdiction and admissibility in the two cases, the United Kingdom and the United States of America were not parties in the same interest within the meaning of Article 31, paragraph 5, of the Statute; that the choice of a judge *ad hoc* by the United Kingdom was therefore justified in that phase of the proceedings; and that accordingly the person chosen by the United Kingdom (see above, p. 172) would sit on the Bench for the purpose of the oral proceedings and would take part in the deliberations by the Court in that phase of the case. The Registrar notified that decision to Libya and to the United Kingdom, and informed the United States of America of the decision, by letters dated 16 September 1997. The judge *ad hoc* thus chosen made the solemn declaration required by the Statute and Rules of Court at the opening of the hearings on the preliminary objections raised by the United Kingdom in that case, on 13 October 1997.

The two judges *ad hoc* chosen by the Parties in the case concerning *Fisheries Jurisdiction (Spain* v. *Canada)* likewise made the solemn declaration, at the opening of the hearings on the question of the jurisdiction of the Court to deal with that case, on 9 June 1998.

(c) *Chamber of Summary Procedure*

(Statute, Art. 29)

On 25 February 1998 the Court composed the Chamber of Summary Procedure, consisting of five judges and two alternate judges (see Chapter I, p. 16, above).

2. *Jurisdiction of the Court*
(Lato sensu)

(a) *General*

(Statute, Art. 36, para. 1)

In the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, the Applicant invoked as the basis for the Court's jurisdiction Article 14, paragraph 1, of the Montreal Convention of 23 September 1971 for the Suppression of Unlawful Acts against the Safety of Civil Aviation. That Article reads as follows:

> "Any dispute between two or more Contracting States concerning the interpretation or application of this Convention which cannot be settled through negotiation, shall, at the request of one of them be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court."

In each of the cases the respondent State filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application. The Court found in each case that it had jurisdiction because the Parties differed on the question whether the destruction of the Pan Am aircraft over Lockerbie was governed by the Montreal Convention and there thus existed between them a dispute as to the legal régime applicable to that event. Such a dispute, in the view of the Court, concerned the interpretation and application of the Montreal Convention, and, in accordance with Article 14, paragraph 1, of the Convention, fell to be decided by the Court. It further found that there also existed specific disputes between the Parties concerning the interpretation and application of Article 7 of the Convention (relating to the place of prosecution) and Article 11 (relating to inter-State assistance in connection with criminal proceedings). The Court did not uphold the argument of the United Kingdom and of the United States that it was not for the Court on the basis of Article 14, paragraph 1, to decide on the lawfulness of the

Respondents' actions criticized by Libya, in so far as those actions would be contrary to the provisions of the Convention. Nor was, in the Court's view, the exercise of the rights which Libya claimed the Montreal Convention conferred upon it, superseded by Security Council resolutions 748 (1992) and 883 (1993) which, by virtue of Articles 25 and 103 of the United Nations Charter, have priority over all rights and obligations arising out of the Montreal Convention; those resolutions were in fact adopted after the filing of the Application on 3 March 1992. The Court pointed out that it was its established jurisprudence that if the Court had jurisdiction on that date, it continued to do so.

With regard to the admissibility of the Libyan Application also, the Court upheld the Libyan submission that the critical date for determining the admissibility of an application was the date on which it was filed. Security Council resolutions 748 (1992) and 883 (1993), adopted at a later date, could therefore not be taken into consideration. Security Council resolution 731 (1992), adopted before the filing of the Application, could not form a legal impediment to the admissibility of the latter because it was a mere recommendation without binding effect.

Both the United Kingdom and the United States, finally, objected to the admissibility of the Application on the ground that Security Council resolutions 748 (1992) and 883 (1993) had rendered Libya's claims without object. The Court concluded that that objection did not have "an exclusively preliminary character" within the meaning of Article 79 of the Rules of Court (for the reasoning followed by the Court, see below, p. 254, under *(c)*, *Preliminary Objections*; cf. also above, pp. 173-179 and 182-188)).

(b) *Declarations recognizing as compulsory the jurisdiction of the Court*

(Statute, Art. 36, paras. 2-4)

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*, the applicant State founded the jurisdiction of the Court on the declarations made by the two Parties accepting the jurisdiction of the Court under Article 36, paragraph 2, of the Statute of the Court.

The respondent State filed preliminary objections to the jurisdiction of the Court and the admissibility of the Application.

With regard to Nigeria's first preliminary objection, the Court quoted the provisions of Article 36, paragraphs 2 and 4, of its Statute, and recalled that in the case concerning *Right of Passage over Indian Territory*, it concluded, in the light of these provisions, that:

> "by the deposit of its Declaration of Acceptance with the Secretary-General, the accepting State becomes a Party to the system of the Optional Clause in relation to the other declarant States, with all the rights and obligations deriving from Article 36. The contractual relation between the Parties and the compulsory jurisdiction of the Court resulting there from are established, '*ipso facto* and without

> special agreement', by the fact of the making of the Declaration . . . For it is on that very day that the consensual bond, which is the basis of the Optional Clause, comes into being between the States concerned." (*Right of Passage over Indian Territory, I.C.J. Reports 1957*, p. 146.)

The conclusions thus reached by the Court in 1957 reflected the very essence of the Optional Clause providing for acceptance of the Court's compulsory jurisdiction. Any State party to the Statute, in adhering to the jurisdiction of the Court in accordance with Article 36, paragraph 2, accepted jurisdiction in its relations with States previously having adhered to that clause. At the same time, it made a standing offer to the other States parties to the Statute which had not yet deposited a declaration of acceptance. The day one of those States accepted that offer by depositing in its turn its declaration of acceptance, the consensual bond was established and no further condition needed to be fulfilled.

The Court noting moreover that to require a reasonable time to elapse before a declaration can take effect would be to introduce an element of uncertainty into the operation of the Optional Clause system. In the case above-mentioned concerning *Right of Passage over Indian Territory*, the Court had considered that it could not create such uncertainty. The conclusions it had reached then remained valid and applied all the more since the growth in the number of States parties to the Statute and the intensification of inter-State relations since 1957 had increased the possibilities of legal disputes capable of being submitted to the Court. The Court could not introduce into the Optional Clause an additional time requirement which was not there.

The Court further noting that it had on numerous occasions had to consider what meaning it is appropriate to give to the condition of reciprocity (referred to by Nigeria) in the implementation of Article 36, paragraph 2, of the Statute, and observed that, in the final analysis, the notion of reciprocity was concerned with the scope and substance of the commitments entered into, including reservations, and not with the formal conditions of their creation, duration or extinction; and that, consequently, the principle of reciprocity was not affected by any delay in the receipt of copies of the Declaration by the Parties to the Statute. (Cf. pp. 227-231 above.)

(c) *Preliminary objections*

(Statute, Art. 36, para. 6; Rules, Art. 79)

In the preliminary objections raised by the United Kingdom and the United States in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)* respectively, each of those States contended that Security Council resolutions 748 (1992) and 883 (1993) had rendered the Libyan claims without object.

The Court noted that it had already acknowledged, on several occasions in the past, that events subsequently to the filing of an application might "render an application without object" and therefore the Court was "not called upon to give a decision thereon". In each of the two cases before it, the Respondent had put forward an objection aimed at obtaining from the Court a decision not to proceed to judgment on the merits, which objection had to be examined within the framework of this jurisprudence.

The Court observed that it had to satisfy itself that such an objection did indeed fall within the provisions of Article 79 of the Rules, relied upon by the Respondent. In paragraph 1, this Article referred to "Any objection . . . to the jurisdiction of the Court or to the admissibility of the application, *or other objection*" (emphasis added); its field of application *ratione materiae* was thus not limited solely to objections regarding jurisdiction or admissibility. However, if it was to be covered by Article 79, an objection also had to possess a "preliminary" character. Paragraph 1 of Article 79 of the Rules of Court characterized as "preliminary" an objection "the decision upon which is requested before any further proceedings". The Court considered in this respect that, in so far as the purpose of the objection raised by the Respondent that there was no ground for proceeding to judgment on the merits was, effectively, to prevent, *in limine*, any consideration of the case on the merits, so that its "effect [would] be, if the objection was upheld, to interrupt further proceedings in the case", and "it [would] therefore be appropriate for the Court to deal with [it] before enquiring into the merits", that objection possessed a preliminary character and did indeed fall within the provisions of Article 79 of the Rules of Court. It noted moreover that the objection concerned had been duly submitted in accordance with the formal conditions laid down in Article 79.

The Applicant did not dispute any of these points. What it contended was that that objection fell within the category of those which paragraph 7 of Article 79 of the Rules of Court characterized as objections "not possess[ing], in the circumstances of the case, an exclusively preliminary character". On the contrary, the Respondent considered that the objection concerned possessed an "exclusively preliminary character" within the meaning of that provision.

The Court found that thus it was on the question of the "exclusively" or "non-exclusively" preliminary character of the objection that the Parties were divided; and it concluded that it should therefore ascertain whether the Respondent's objection based on the Security Council decisions contained "both preliminary aspects and other aspects relating to the merits" or not.

On the basis of the reasoning set out above (see pp. 178-179 and 186-188 above), the Court concluded that the objection of the Respondent according to which the Applicant's claims had been rendered without object did not have "an exclusively preliminary character" within the meaning of Article 79 of the Rules of Court.

The eighth preliminary objection of Nicaragua in the case concerning *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* argued that the question of maritime delimitation beyond a certain point "G", necessarily involved the rights and interests of third States and was to that extent inadmissible. On the basis of the reasoning set out above (see p. 239 above), the Court concluded that the eighth preliminary objection of Nigeria did not possess, in the circumstances of the case, an exclusively preliminary character.

3. *Contentious Procedure*

(a) *Institution of proceedings*

(Statute, Art. 40; Rules, Art. 38)

In the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, proceedings were instituted by means of an Application. The Registrar proceeded with the requisite communications, in accordance with the provisions of the Statute and the Rules of Court.

In the case concerning *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)*, Nigeria, in its sixth preliminary objection, contended that the submissions of Cameroon did not meet the standard required by Article 38 of the Rules of Court and general principles of law regarding the adequate presentation of facts on which Cameroon's request was based, including dates, the circumstances and precise locations of the alleged incursions and incidents into and on Cameroonian territory. Nigeria maintained that what Cameroon had presented to the Court did not give Nigeria the knowledge which it needed and to which it was entitled in order to prepare its reply. Similarly, in Nigeria's view, the material submitted was so sparse that it did not enable the Court to carry out fair and effective judicial determination of, or make determination on, the issues of State responsibility and reparation raised by Cameroon. While Nigeria acknowledged that a State had some latitude in expanding later on what it had said in its Application and in its Memorial, Cameroon was said to be essentially restricted in its elaboration to the case as presented in its Application.

The decision on Nigeria's sixth preliminary objection hinges upon the question of whether the requirements which an application must meet and which are set out in Article 38, paragraph 2, of the Rules of Court are met in the present instance. The requirements set out in Article 38, paragraph 2, are that the Application shall "specify the precise nature of the claim, together with a succinct statement of the facts and grounds on which the claim is based". The Court notes that "succinct", in the ordinary meaning to be given to this term, does not mean "complete" and neither the context in which the term is used in Article 38, paragraph 2, of the Rules of Court nor the object and purpose of that provision indicate that it should be interpreted in that way. Article 38, paragraph 2, does therefore not preclude later additions to the statement of the facts and grounds on which a claim is based.

Nor does Article 38, paragraph 2, provide that the latitude of an applicant State, in developing what it has said in its application, is strictly limited, as suggested by Nigeria. That conclusion cannot be inferred from the term "succinct"; nor can it be drawn from the Court's pronouncements on the importance of the point of time of the submission of the application as the critical date for the determination of its admissibility; these pronouncements do not refer to the content of applications.

The Court also recalled that it had become an established practice for States submitting an application to the Court to reserve the right to present additional facts and legal considerations. The limit of the freedom to present such facts and considerations was that the result was not to transform the dispute brought before the Court by the application into another dispute which was different in character. Cameroon, in the case, had not so transformed the dispute.

As regards the meaning to be given to the term "succinct", the Court simply noted that Cameroon's Application contained a sufficiently precise statement of the facts and grounds on which the Applicant based its claim. That statement fulfilled the conditions laid down in Article 38, paragraph 2, and the Application was accordingly admissible.

The Court observed, however, that this observation did not prejudge the question whether, taking account of the information submitted to the Court, the facts alleged by the Applicant were established or not, and whether the grounds it relied upon were founded or not. Those questions belonged to the merits and might not be prejudged in the jurisdiction and admissibility phase of the proceedings.

(b) *Fixing of time-limits*

(Statute, Art. 48; Rules, Arts. 31, 44, 46 and 79)

In the case concerning the *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)*, the Court, having ascertained the views of the Parties, fixed time-limits for the filing of an interim report by Qatar on the question of the authenticity of 81 documents produced by Qatar as annexes to its Memorial, and of a Reply by each of the Parties (see below, p. 257, under *(c)*).

In each of the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, the Court fixed a time-limit for the filing of a Counter-Memorial by the respondent State (see above, p. 190).

In the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, and in the case concerning *Application of the*

Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina v. *Yugoslavia)*, the Court made an Order in which, after finding that the counter-claim(s) by the respondent Parties were admissible, it fixed time-limits for the filing of a Reply by the applicant State and a Rejoinder by the respondent State (see above, p. 203).

The Court further fixed a time-limit for the filing of a Reply by each of the Parties in the case concerning *Kasikili/Sedudu Island (Botswana/Namibia)* (see above, p. 245).

(c) *Filing of pleadings*

In the cases concerning *Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar* v. *Bahrain)* and concerning *Kasikili/Sedudu Island (Botswana/Namibia)*, each of the Parties filed its Counter-Memorial within the time-limit fixed by the Court. Because, in the first-mentioned case, Bahrain had meanwhile challenged the authenticity of 81 documents produced by Qatar as annexes to its Memorial, it had at a meeting held by the President of the Court with the Parties, been agreed *inter alia* that the Counter-Memorials would not deal with that question and that other pleadings would be submitted by the Parties at a later date.

In the cases concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, and concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*, each of the Parties filed written observations on the question of the admissibility of the respondent State's counter-claim(s) within the time-limits fixed by the Vice-President, Acting President, and the President, respectively, during meetings with the Agents of the Parties (see above, p. 250, under *(a)*). In the last-mentioned case the applicant State further filed a Reply within the time-limit, as extended by the President of the Court (see above, p. 250, under *(a)*).

(d) *Presentation of new documents*

(Statute, Art. 52; Rules, Art. 56)

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria) (Preliminary Objections)*, both Parties wished to file new documents after the closure of the written proceedings. The Court, after ascertaining the views of the other Party in each case, decided to admit those filings.

(e) *Oral proceedings*

(Statute, Arts. 43, 45 and 46; Rules, Arts. 54, 58, 59, 74, para. 3, and 79, para. 4)

The hearings in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial*

Incident at Lockerbie (Libyan Arab Jamahiriya v. *United Kingdom) (Preliminary Objections)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America) (Preliminary Objections)*, concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria) (Preliminary Objections)*, and concerning *Fisheries Jurisdiction (Spain* v. *Canada) (Jurisdiction of the Court)*, each consisted of two rounds of oral arguments in which both States participated.

The Court also held two rounds of hearings on the request for the indication of provisional measures made by Paraguay in the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* (see below, p. 260, under *(i)*).

(f) *Accessibility of pleadings to the public*

(Rules, Art. 53, para. 2)

In the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Preliminary Objections)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America) (Preliminary Objections)*, and in the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria) (Preliminary Objections)*, the Court, after ascertaining the views of the Parties, decided to make accessible to the public, on the opening of the oral proceedings, the Preliminary Objections of the Respondent and the written statement containing the Applicant's observations and submissions on the Objections, as well as the documents annexed to those pleadings. An exception was made for Annex 16 to the Preliminary Objections of the respondent State in the first-mentioned case.

In the case concerning *Fisheries Jurisdiction (Spain* v. *Canada) (Jurisdiction of the Court)* the Court likewise decided to make the pleadings and the documents annexed thereto accessible to the public on the opening of the hearings.

(g) *Questions by judges*

(Statute, Art. 45; Rules, Arts. 61 and 72)

During the hearings in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Preliminary Objections)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*

(Preliminary Objections), questions were put to the Parties by the President and another Member of the Court. The replies were given in writing, within the prescribed time-limits.

Replies to a question put by a Member of the Court to both Parties in the case concerning *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria) (Preliminary Objections)* were given in the same way.

The question put by the President to the applicant Party during the hearings on the request for the indication of provisional measures in the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, was partially replied to orally during the hearing, while information completing the answer was provided in writing.

(h) *Final submissions*

(Rules, Art. 60, para. 2)

In the second round of oral arguments in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Preliminary Objections)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America) (Preliminary Objections)*, concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria) (Preliminary Objections)* and concerning *Fisheries Jurisdiction (Spain* v. *Canada) (Jurisdiction of the Court)*, the Agents of both Parties in each case read the final submissions of their Governments, which they also submitted in writing.

(i) *Provisional measures*

(Statute, Art. 41; Rules, Arts. 73 and 74)

In the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, the Applicant made a request for the indication of provisional measures on the same day on which the Application was filed (see above, p. 248).

By identical letters of that same day, the Vice-President, Acting President, under the provisions of Article 74, paragraph 4, of the Rules of Court, drew "the attention of both Parties to the need to act in such a way as to enable any Order the Court will make on the request for provisional measures to have its appropriate effects".

Four days later the Court held a hearing on the request at which both Parties presented oral observations. Two days after those hearings, the Court made an Order indicating provisional measures (see above, p. 248).

(j) *Counter-claims*

(Rules, Art. 80)

In each of the cases concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)* and concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, the applicant State informed the Court that in its view the counter-claim(s) which the respondent State had submitted (cf. *ICJ Yearbook 1996-1997*, p. 199) did not meet the requirements of Article 80, paragraph 1, of the Rules of Court and expressed its intention to submit a request for a hearing in accordance with Article 80, paragraph 3, during the meeting which the President or the Vice-President, Acting President, would hold with the Parties to ascertain their views with regard to questions of procedure.

After, in each case, the above-mentioned meetings between the President or Vice-President, Acting President, and the Parties had been held, the Registrar, on the instructions of the Court, invited the applicant State to specify in writing, within a fixed time-limit, the legal basis on which it maintained that the counter-claim(s) made by the Respondent did not meet the criteria laid down in Article 80, paragraph 1, of the Rules of Court; in his letter, the Registrar specified that, following the filing of the Applicant's observations, the respondent State would in turn be invited to submit its views on the question within a fixed time-limit. A copy of that letter was sent to the respondent State the same day. After the observations by each State in the two cases had been duly submitted, the Court considered that it was sufficiently well informed of the positions of the Parties and that no hearings appeared necessary. By an Order in each case it found that the counter-claim(s) presented by the Respondent in its Counter-Memorial were admissible as such and formed part of the current proceedings.

In reaching its decision in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*, the Court considered that it was established that a counter-claim had a dual character in relation to the claim of the other party; that a counter-claim was independent of the principal claim in so far as it constituted a separate "claim", that is to say an autonomous legal act the object of which was to submit a new claim to the Court, and that, at the same time, it was linked to the principal claim, in so far as, formulated as a "counter" claim, it reacted to it; that the thrust of a counter-claim is thus to widen the original subject-matter of the dispute by pursuing objectives other than the mere dismissal of the claim of the Applicant in the main proceedings – for example, that a finding be made against the Applicant; and, that in this respect, the counter-claim was distinguishable from a defence on the merits.

The Court found that in the current case, although Submissions 1 and 2 in the Counter-Memorial of Yugoslavia related exclusively to the dismissal of the claims of Bosnia and Herzegovina, Submissions 3 to 6, on the contrary, set out separate claims seeking relief beyond the dismissal of the claims of Bosnia and Herzegovina; and that such claims constituted "counter-claims" within the meaning of Article 80 of the Rules of Court.

It pointed out, however, that a claim should normally be made before the Court by means of an application instituting proceedings; that, although it was permitted for certain types of claim to be set out as incidental proceedings, that is to say, within the context of a case which was already in progress, this was merely in order to ensure better administration of justice, given the specific nature of the claims in question; that, as far as counter-claims were concerned, the idea was essentially to achieve a procedural economy whilst enabling the Court to have an overview of the respective claims of the Parties and to decide them more consistently; and that the admissibility of the counter-claims should necessarily relate to the aims thus pursued and be subject to conditions designed to prevent abuse.

The Respondent could not use a counter-claim as a means of referring to an international court claims which exceeded the limits of its jurisdiction as recognized by the Parties; and the Respondent could not use that means either to impose on the Applicant any claim it chose, at the risk of infringing the Applicant's rights and of compromising the proper administration of justice; it was for that reason that paragraph 1 of Article 80 of the Rules of Court required that the counter-claim "comes within the jurisdiction of the Court" and "that it is directly connected with the subject-matter of the claim of the other party".

The Court observed that in the current case it was not disputed that the Yugoslav counter-claims were "made in the Counter-Memorial of the Party presenting it, and . . . appear as part of the submissions of that Party", in accordance with Article 80, paragraph 2, of the Rules of Court; and that, although Bosnia and Herzegovina recognized that these claims met the jurisdictional requirement set out in paragraph 1 of that Article, it denied that they met the requirement of being directly connected with the subject-matter of the claim, also set out in that Article.

It pointed out that the Rules of Court did not define what was meant by "directly connected"; that it was for the Court, in its sole discretion, to assess whether the counter-claim was sufficiently connected to the principal claim, taking account of the particular aspects of each case; and that, as a general rule, the degree of connection between the claims should be assessed both in fact and in law.

Observing that it emerged from the Parties' submissions that their respective claims rested on facts of the same nature; that they formed part of the same factual complex since all those facts were alleged to have occurred on the territory of Bosnia and Herzegovina and during the same period; and that Yugoslavia stated, moreover, that it intended to rely on certain identical facts in order both to refute the allegations of Bosnia and Herzegovina and to obtain judgment against that State; and referring to its Orders of 8 April and 13 September 1993 in which it considered the requests for the indication of provisional measures made by each of the Parties, the Court found that the counter-claims submitted by Yugoslavia were directly connected with the subject-matter of Bosnia and Herzegovina's claims; and that, as counter-claims, they were therefore admissible and formed part of the current proceedings.

It was the first time that the Court ruled on the admissibility of counter-claims at a preliminary stage. In the past the Court adjudicated twice on counter-claims (*Asylum, Judgment*, 1950, and *Rights of Nationals of the United States of America in Morocco, Judgment*, 1952), but it did so simultaneously with its final decision on the merits of the case.

In the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, the Court reasoned that Iran did not dispute that the United States claim was presented not as a defence on the merits, but as a "counter-claim" within the meaning of Article 80 of the Rules of Court, that it was not disputed that the claim had been "made in the Counter-Memorial of the party presenting it, and [appeared] as part of the submissions of that party", in accordance with Article 80, paragraph 2; that, however, Iran denied that the counter-claim met the requirements of "jurisdiction" and of "direct connection" set out in Article 80, paragraph 1, and that it fell to the Court to determine whether these requirements were met in the particular case.

The Court observed that it already had occasion to state the reasons why the admissibility of a counter-claim as such was contingent on those conditions in the following terms:

> "Whereas the Respondent cannot use a counter-claim as a means of referring to an international court claims which exceed the limits of its jurisdiction as recognized by the Parties; and whereas the Respondent cannot use that means either to impose on the Applicant any claim it chooses, at the risk of infringing the Applicant's rights and of compromising the proper administration of justice; and whereas it is for that reason that paragraph 1 of Article 80 of the Rules of Court requires that the counter-claim 'comes within the jurisdiction of the Court' and 'that it is directly connected with the subject-matter of the claim of the other party'" (*Application of the Convention on the Prevention and Punishment of the Crime of Genocide, Order of 17 December 1997, I.C.J. Reports 1997*, p. 257, para. 31).

The Court then recalled that it had found, in its Judgment of 12 December 1996, that its jurisdiction in the case covered claims made under Article X, paragraph 1, of the 1955 Treaty, which was worded as follows: "Between the territories of the two High Contracting Parties there shall be freedom of commerce and navigation."

It found that the counter-claim presented by the United States alleged attacks on shipping, the laying of mines, and other military actions said to be "dangerous and detrimental to maritime commerce"; that such facts were capable of falling within the scope of Article X, paragraph 1, of the

1955 Treaty as interpreted by the Court; and that the Court had jurisdiction to entertain the United States counter-claim in so far as the facts alleged might have prejudiced the freedoms guaranteed by that Article.

In this case also the Court recalled that its Rules did not define what was meant by "directly connected"; that it was for the Court, in its sole discretion, to assess whether the counter-claim was sufficiently connected to the principal claim, taking account of the particular aspects of each case; and that, as a general rule, the degree of connection between the claims should be assessed both in fact and in law.

The Court then found that it emerged from the Parties' submissions that their claims rested on facts of the same nature; that they formed part of the same factual complex since the facts relied on – whether involving the destruction of oil platforms or of ships – were alleged to have occurred in the Gulf during the same period; that the United States indicated, moreover, that it intended to rely on the same facts and circumstances in order both to refute the allegations of Iran and to obtain judgment against that State; and that, with their respective claims, the two Parties pursue the same legal aim, namely the establishment of legal responsibility for violations of the 1955 Treaty.

Therefore the counter-claim presented by the United States was directly connected with the subject-matter of the claims of Iran; and satisfied the conditions set forth in Article 80, paragraph 1, of the Rules of Court.

(k) *Separate and dissenting opinions and declarations*

(Statute, Art. 57; Rules, Art. 95, para. 2)

In the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Preliminary Objections)*, the President and one other judge each appended a declaration to the Judgment of the Court; the Vice-President and two other judges appended separate opinions, while six judges and the judge *ad hoc* appended dissenting opinions (see above, p. 181).

In the case concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America) (Preliminary Objections)*, three judges appended a joint declaration to the Judgment of the Court; one other judge also appended a declaration. Two judges appended a separate opinion, while the President and one other judge appended a dissenting opinion (see above, p. 190).

To the Order on the counter-claim in the case concerning *Oil Platforms (Islamic Republic of Iran* v. *United States of America)*, two judges appended separate opinions, while the judge *ad hoc* appended a dissenting opinion (see above, p. 193).

To the Order on counter-claims in the case concerning *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia)*, one judge *ad hoc* appended a declaration; one judge and the other judge *ad hoc* appended separate opinions, the Vice-President a dissenting opinion (see above, p. 203).

In the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)*, the President and one other judge appended declarations to the Judgment of the Court, the Vice-President and two other judges a separate opinion, while six judges and the judge *ad hoc* appended dissenting opinions (see above, p. 222).

In the case concerning the *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria) (Preliminary Objections)*, five judges appended separate opinions to the Judgment of the Court, while the Vice-President, one other judge and one of the judges *ad hoc* appended dissenting opinions (see above, p. 242).

To the Order on the request for the indication of provisional measures in the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)*, the President and two other judges each appended a declaration.

(1) *Reading of the decision of the Court*

(i) Judgments

(Statute, Art. 58; Rules, Art. 59)

The Judgment of the Court in the case concerning the *Gabčíkovo-Nagymaros Project (Hungary/Slovakia)* was read at a public sitting; in view of the length of the text, the President omitted and summarized certain passages.

The Judgments on preliminary objections in the cases concerning *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom)* and *Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United States of America)*, and in the case concerning *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon* v. *Nigeria)* were read at a public sitting, in the same way, by the Vice-President, Acting President, and the President, respectively.

(ii) *Order*

The Order on the request for the indication of provisional measures in the case concerning the *Vienna Convention on Consular Relations (Paraguay* v. *United States of America)* was also read at a public sitting, by the Vice-President, Acting President.

4. *Staff Regulation for the Registry*

(Statute, Art. 21, para. 2; Rules, Art. 28, para. 4)

On 16 April 1997 the Court, on the proposal of the Rules Committee, adopted a new Article 11 of the Staff Regulations for the Registry, as well as a new Annex VI. Those texts, which instituted a new system of Registry staff appeals against administrative decisions or disciplinary measures, read as follows:

> "*Article 11*
>
> 1. There is hereby established a Conciliation Committee, consisting of three staff members of the Registry selected as follows:
>
> *(a)* one member designated by the Registrar;
> *(b)* one member elected by the Staff Committee or, if it has proved impossible to form that Committee, one member elected by the staff as a whole, by simple majority; and
> *(c)* a chairman chosen by the above two members or, if there has been a failure of agreement between them, designated by the President of the Court.
>
> 2. Each member of the Conciliation Committee selected in accordance with paragraph 1 of this Article shall have an alternate chosen in the same manner, who shall sit in the event of it being impossible for the full member to do so for the reasons set forth in paragraph 3 below or for any other compelling reason, such as ill-health.
>
> 3. Members of the Conciliation Committee and their alternates may not deal with any case in which they have previously taken part, in whatever capacity, or the decision of which could be of direct concern to them.
>
> 4. Members of the Conciliation Committee and their alternates shall be appointed for three years and as soon as practicable after each triennial renewal of the Court[1]. In case of a casual vacancy, a member shall be appointed as soon as practicable for the remainder of his or her predecessor's term; the choice shall be made in the manner prescribed above for the original appointment. A member shall hold office until replaced but, though replaced, shall finish any case with which he or she may have begun to deal before his or her replacement, provided that he or she remains a staff member of the Registry.
>
> 5. A staff member of the Registry may lodge a complaint with the Conciliation Committee
>
> *(a)* against an administrative decision alleging non-observance of his or her contract or his or her terms of employment, the words 'contract' and 'terms of employment' comprising all provisions of the Staff Regulations for the Registry, and of the texts referred to therein, as may have been in force at the time of the alleged non-observance; or
> *(b)* against any disciplinary actions taken against him or her;

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[1] With respect to the initial appointments, the terms of office of Conciliation Committee members will be reduced, in such a way as to make it possible to proceed with the ensuing appointments on the occasion of the triennial renewal of the Court which will take place in the year 2000.

6. The Conciliation Committee shall hear the staff member and the Registrar without other persons present and endeavour to settle the matter by way of conciliation in accordance with the applicable provisions of Annex VI.

7. In the event of a failure to achieve a conciliation, the administrative decision or disciplinary action may be the subject of an Application to the United Nations Administrative Tribunal, in accordance with the Statute of that Tribunal and under the conditions to be determined in an exchange of letters between the President of the Court and the Secretary-General of the United Nations.

8. In the event of difficulty in the application of the present Article and of Annex VI, the Court will decide."

*

"*Annex VI*

Proceedings before the Conciliation Committee

1. A staff member of the Registry who wishes to lodge a complaint under Article 11, paragraph 5, of the Staff Regulations for the Registry shall first address a letter to the Registrar requesting a review of the administrative decision or disciplinary action complained of. The letter must be sent within 30 days of the date on which the staff member received notification or became aware of the decision or action.

2. *(a)* The staff member may proceed with his or her complaint if the Registrar, by his or her reply, rejects in whole or in part his or her request, or if no reply is received by him or her within 30 days of the date on which his or her letter was addressed to the Registrar.

(b) The complaint shall be in writing and shall be lodged by the staff member with the Conciliation Committee within 30 days of receipt of the Registrar's reply, or, if there is no reply within 30 days of the date on which the staff member's letter was sent to him or her, within the next 30 days.

3. In the case of disciplinary action, the staff member may lodge his or her complaint with the Conciliation Committee either in conformity with paragraphs 1 and 2 above or within 30 days of the date on which he or she received notification or became aware of the action complained of.

4. When lodging his or her complaint the staff member shall send a copy to the Registrar. Within 30 days of receiving the copy, the Registrar shall send his or her answer in writing to the Conciliation Committee and, at the same time, a copy to the staff member. The Chairman of the Committee shall ensure that those copies have in fact been received by the addressees.

5. As soon as practicable after receiving the Registrar's answer, the Conciliation Committee shall endeavour to conciliate between

the parties and shall hear them for that purpose. In the event of a successful conciliation, it shall record the agreement of the parties in a Minute. In the event of failure, it shall draw up a report summarizing the procedure followed, the arguments of the parties and the recommendations made by the Committee during the proceedings. That report shall be transmitted to the Registrar and to the staff member. By virtue of Article 7, paragraph 11, of the Staff Regulations for the Registry, and within the time-limit indicated by the exchange of letters for which provision is made in that paragraph, the staff member shall be entitled to submit an Application to the United Nations Administrative Tribunal."

In order, *inter alia*, to enable the competence of the United Nations Administrative Tribunal (UNAT) to be extended to the staff of the Registry, the General Assembly of the United Nations amended, by resolution 52/166 of 15 December 1997, Article 13 of the Statute of UNAT. Paragraph 1 *(a)* (1) of that Article as amended reads as follows:

"The competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions."

The exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions is reproduced below:

Letter to His Excellency Mr. Kofi Annan dated 18 February 1998:

"Mr. Secretary-General,

I have the honour to draw to your attention the question of the appeals system available to the staff of the Registry of the International Court of Justice against such administrative decisions or disciplinary actions as they may wish to contest (with the exception of decisions taken with regard to pensions which were already the subject of our exchange of letters of 26 February-3 April 1981).

The staff of the Registry is subjected, in accordance with the relevant provisions of the Statute and Rules of Court, to particular Staff Regulations approved by the Court. By the terms of Article 11 of the Staff Regulations for the Registry adopted in 1979 by the Court, an appeals system was set up, which is still in force at the present time. That text provides for the election by the Court of a Judge for Staff Appeals who is to 'endeavour to bring about a speedy solution of the matter in conformity with the relevant rules and regulations'; it further provides that 'if no such solution has been reached, the Judge for Staff Appeals shall at the request either of the staff member or of the Registrar refer the matter to the Court for settlement according to the procedure which the Court may prescribe'.

The Court has, on several occasions in the past, pondered over the improvements that could be made to this procedure. Recently, it took up this question once again and noted that the General Assembly had, in 1995, abolished the procedure laid down by Article 11 of the Statute of the Administrative Tribunal and that the Assembly had thus put an end to the possibility that the Court might render advisory opinions on the judgments handed down by the Tribunal. Under these circumstances the Court considered that it could put an end to the system of appeals described above and put in place a new system providing for the extension of the jurisdiction of the United Nations Administrative Tribunal to the staff of the Registry. When arriving at that opinion it took account of the fact that, while the legal régime of the Registry staff has remained unchanged fundamentally since 1947, the competence of the Tribunal has, for its part, been extended progressively to various categories of staff whose status is governed by rather different rules in each case. The Court consequently adopted an amendment to Article 11 of the Staff Regulations for the Registry, the new text providing for a machinery of conciliation in its paragraphs 1 to 6, and prescribing in its paragraph 7 that

> 'In the event of a failure to achieve a conciliation, the administrative decision or disciplinary action may be the subject of an application to the United Nations Administrative Tribunal, in accordance with the Statute of that Tribunal and under the conditions to be determined in an exchange of letters between the President of the Court and the Secretary-General of the United Nations.'

The entry into force of this provision was subjected to a modification of the Statute of the Tribunal by the General Assembly of the United Nations. By its resolution 52/166 of 15 December 1997, the General Assembly approved the addition, to Article 13 of this Statute, of a paragraph 1 reading as follows:

> 'The competence of the Tribunal shall be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General of the United Nations establishing the relevant conditions.'

In application of this provision, I would propose that you consider that applications submitted to the United Nations Administrative Tribunal by virtue of Article 11, paragraph 7, of the Staff Regulations for the Registry are to be subjected to the following conditions:

(1) In the event of an application filed by a staff member of the Registry of the International Court of Justice (hereinafter referred to as 'the Court') or by his or her eligible beneficiaries, the United Nations Administrative Tribunal (hereinafter referred to as 'the

Tribunal') shall apply its Statute and Rules, subject to the specific provisions indicated in paragraphs (2) to (7) of the present exchange of letters.

(2) For the purposes of the present exchange of letters:

(a) the references to the staff members of the Secretariat of the United Nations that are made in Article 2 of the Statute of the Tribunal shall be deemed to apply to the staff members of the Registry of the Court;
(b) the references to the provisions of the Staff Regulations and Rules that are made in the Statute and Rules of the Tribunal shall be deemed to apply, by virtue of Article 12 of the Staff Regulations for the Registry of the Court, to the relevant provisions of those Staff Regulations for the Registry, including the applicable provisions of the Staff Regulations, Rules, Administrative Instructions, Administrative Circulars and Information Circulars of the United Nations, together with the Instructions for the Registry;
(c) the references to the Secretary-General of the United Nations that are made in Articles 9 and 11 of the Statute of the Tribunal and in Articles 7, 18 and 20 of its Rules are to be deemed to refer to the Registrar of the Court;
(d) when the text of the Statute and Rules of the Tribunal refers to one of the official languages of the United Nations or to the working languages of the General Assembly, this should read: 'either one of the official languages of the Court'.

(3) Under Article 2, paragraph 1, of its Statute, the Tribunal shall be competent to deal with applications contesting disciplinary actions.

(4) Article 2, paragraph 4, of the Statute of the Tribunal shall be replaced by the following provisions:

> 'However, the Tribunal shall not be competent to hear and pass judgment upon applications if the administrative decision or disciplinary action complained of occurred prior to the date of entry into force of the present exchange of letters.'

(5) In order to take account of the conciliation procedure applicable to the staff of the Registry, the following provisions will be substituted for the text of Article 7 of the Statute of the Tribunal:

(a) an application shall not be receivable unless the person concerned has previously submitted the dispute to the Conciliation Committee set up under Article 11 of the Staff Regulations for the Registry and the Committee has transmitted to the Registrar and the concerned staff member the report provided for, in the event of a failure to achieve a conciliation, in Annex VI, paragraph 5, to those Staff Regulations;

(b) an application shall not be receivable unless it is filed within 30 days reckoned from the reception by the concerned staff member of the aforementioned report, that time-limit being extended to one year if the heirs of a deceased staff member or the trustee of a staff member who is not in a position to manage his own affairs file the application in the name of the said staff member;

(c) in any particular case the Tribunal may decide to suspend the provisions regarding time-limits;

(d) the filing of an application shall not have the effect of suspending the execution of the decision contested;

(e) applications may be filed in either one of the official languages of the Court.

Consequently, Article 7, paragraphs 8 and 9, of the Rules of the Tribunal shall not be applicable, with the exception of the provision according to which 'The applicant shall file the duly signed original and seven copies of the application with the Executive Secretary.'

(6) The text of Article 13 of the Rules of the Tribunal shall be replaced by the following provisions:

> 'An applicant may present his case before the Tribunal in person, in either written or oral proceedings. He may be assisted or represented by a member or former member of the Registry staff or by counsel authorized to practise in any of the States parties to the Statute of the Court.'

(7) In Annex I to the Rules of the Tribunal, items 6, 7, 8 and 9 are to be read in accordance with the conciliation procedure laid down in Annex VI to the Staff Regulations for the Registry of the Court.

If you are in agreement, the present letter and your reply shall constitute the exchange of letters contemplated by Article 11, paragraph 7, of the Staff Regulations for the Registry of the Court and Article 13, paragraph 1, of the Statute of the Tribunal. The aforementioned exchange of letters shall enter into force on the date given as the date of reply.

Accept, Sir, the assurances of my highest consideration.

(Signed) Stephen M. Schwebel."

Letter of reply from His Excellency, Mr. Kofi Annan:

"Excellency,

I have the honour to acknowledge the receipt of your letter of 18 February 1998 in which you make reference to General Assembly resolution 52/166 of 15 December 1997 which provides that the competence of the United Nations Administrative Tribunal may be extended to the staff of the Registry of the International Court of Justice upon the exchange of letters between the President of the Court and the Secretary-General establishing the relevant conditions. In this regard you propose that applications submitted to the United Nations Administrative Tribunal by the staff of the Registry by virtue of Article 11, paragraph 7, of the Staff Regulations for the Registry be subject to the conditions referred to in your letter.

I am pleased to confirm that the conditions stipulated in your letter are acceptable and that, therefore, your letter and the present reply to it shall constitute the exchange of letters contemplated in General Assembly resolution 52/166 which will enter into force upon the date of this reply.

Please accept, Excellency, the assurances of my highest consideration.

(Signed) Kofi A. Annan."

III. VISITS

A. Visit by the Deputy Secretary-General of the United Nations

On 22 May 1998, the Deputy Secretary-General of the United Nations, H.E. Miss Louise Fréchette, made an official visit to the Court. She was received by the Members of the Court and held private exchanges with them. President Schwebel gave a luncheon in her honour.

B. Visits of Heads of State

On 30 October 1997, H.E. Mr. Jorge Sampaio, the President of the Portuguese Republic, was received by the Court in the Great Hall of Justice at the Peace Palace, the seat of the Court. At a sitting attended by the diplomatic corps, representatives of the Dutch Government and Parliament, as well as other authorities of the host State, members of the Permanent Court of Arbitration, the International Criminal Tribunal for the Former Yugoslavia, the Iran-United States Claims Tribunal, the Organization for the Prohibition of Chemical Weapons, the Hague Conference on Private International Law and other institutions, the Vice-President of the Court, Judge Weeramantry, made a welcoming speech, in which he referred *inter alia* to Portugal's historic role on the international stage and to its great contribution to the development of modern international law and of international dispute resolution. In his reply the President of the Portuguese Republic drew attention to the development of universalism in the fields of international organization and international dispute settlement, while regretting that the jurisdiction of the Court had not been extended in the course of the years either *ratione personae* or *ratione materiae*.

On 2 December 1997 the President of Ukraine, Mr. Leonid Kuchma, was received by the Court. In the Small Hall of Justice the President of the Court, Judge Schwebel, praised in his welcome speech the recent conclusion of a treaty between Ukraine and one of its neighbouring States which, he said, represented an "important contribution to the jurisdiction of the Court". President Schwebel further confirmed that "the Court, as always, stands ready to serve and uphold the role and the rule of international law in the peaceful resolution of disputes". President Kuchma, in his response, expressed satisfaction at visiting "the world temple of justice". Paying tribute to the Court's work since its creation in 1946, he referred to the agreements concluded by his country with Romania and the Russian Federation as an illustration of Ukraine's desire to achieve neighbourly relations.

On 5 March 1998, the President of Romania, H.E. Mr. Emil Constantinescu, was received by the Court. In the Red Room adjoining the Great Hall of Justice, the President of the Court praised in his welcome address the recent conclusion between Romania and a neighbouring State of a treaty containing a provision for the jurisdiction of the Court. The President of Romania, in his response, reiterated the "clear and firm commitment of Romania to support the activity of the Court" and to work to promote good relations between States. In that connection, he stressed that his country, by concluding bilateral treaties with Ukraine and Hungary and by participating in the creation of Euroregions, had become a "factor of regional stability in an area where there is still a danger of fresh conflicts arising".

On 16 March 1998, the President of Venezuela, H.E. Dr. Rafael Caldera, was received by the Court in the Great Hall of Justice. It was the second time that President Caldera visited the Peace Palace. In 1979, he came to unveil a bronze bust of the Venezuelan lawyer, philosopher and poet Andrés Bello, a gift from his country. At a sitting attended by the diplomatic corps, representatives of the Dutch Government and other authorities of the host State, of the Permanent Court of Arbitration, the International Criminal Tribunal for the Former Yugoslavia and other international institutions located in The Hague, the President of the Court, in his welcome speech, commended President Caldera for his long-standing contribution to social justice in the national and international fields, as well as Venezuela, and its founder, Simon Bolivar, for their initiatives with regard to compulsory international arbitration. President Caldera, in his reply, drew attention to the heavy task of integrating the idea of social justice in the body of international law and stressed the confidence his country had in this respect in the Court and in law and justice.

IV. REPORT AND REPRESENTATION OF THE COURT AT THE GENERAL ASSEMBLY

On the occasion of the fifty-second session of the General Assembly, the Court submitted a report on its activities covering the period from 1 August 1996 to 31 July 1997 (A/52/4). This report was divided into eight parts, relating to the composition, jurisdiction and judicial work of the Court, the role of the Court, visits, lectures, administrative questions, and the Court's publications and documents. The General Assembly took note of the report at its 36th plenary meeting held on 27 October 1997. On that occasion the President, who, with the Registrar, represented the Court at the fifty-second session of the General Assembly, addressed that body on the role and functioning of the Court. In his address, the President referred to the fact that the Court had been examining the consequences of its increased workload and had consequently adopted certain measures and practices to accelerate its work. The text of that address is reproduced in the Appendix to this Chapter (see below pp. 288-295). Those Members of the Court who were present in New York also attended part of the fifty-second session of the General Assembly.

A report dealing with the period 1 August 1997 to 31 July 1998 will be submitted on the occasion of the fifty-third session of the General Assembly (A/53/4).

At the 72nd meeting of its fifty-second session, held on 15 December 1997, the General Assembly adopted resolution 52/161, paragraph 4 of which reads:

> "4. Invites Member States, the States parties to the Statute of the International Court of Justice, and the International Court of Justice if it so desires, to present, before the fifty-third session of the General Assembly, their comments and observations on the consequences that the increase in the volume of cases before the Court has on its operation, on the understanding that whatever action may be taken as a result of this invitation will have no implications for any changes in the Charter of the United Nations or the Statute of the International Court of Justice."

The Court's response to the General Assembly is reproduced below, together with the text of a Note, for the information of States parties in cases before the Court (cf. Appendix, pp. 275-286).

V. APPLICATIONS FROM PRIVATE PERSONS

Private persons frequently apply to the Court for the purpose of obtaining a decision on matters at issue between them and the authorities of their own or of another country. Between 1 August 1997 and 31 July 1998 the Court received approximately 1,200 requests of this kind. The writers were informed that, according to Article 34 of the Statute, "only States may be parties in cases before the Court".

APPENDIX

1. RESPONSE OF THE COURT TO GENERAL ASSEMBLY RESOLUTION 52/161 OF 15 DECEMBER 1997

The Court was invited to submit to the General Assembly by 30 June 1998 its "comments and observations on the consequences that the increase in the volume of cases before the Court has on its operation, on the understanding that whatever action may be taken as a result of this invitation will have no implications for any changes in the Charter of the United Nations or the Statute of the International Court of Justice" (General Assembly resolution 52/161, para. 4).

> "The Assembly will find below the observations it invited. After explaining the current workload of the Court, this Report examines the effects of the increase in the volume of its work and the budgetary difficulties that it faces. It then analyses the responses of the Court to this double challenge and its needs that have yet to be met.
>
> ### *The Court and Its Workload*
>
> The International Court of Justice is one of the six principal organs of the United Nations and its principal judicial organ, a body whose independence and autonomy are recognized by the Charter of the United Nations and the Statute of the Court, which itself is an integral part of the Charter. The Court must at all times be able to exercise the functions entrusted to it if the terms and intent of the Charter are to be implemented.
>
> The entire raison d'être of the Court is to deal with the cases submitted to it by States Members of the United Nations and parties to the Statute and with the requests for advisory opinions made by United Nations organs or specialized agencies. These statutory duties of the Court mean that it does not have programmes which may be cut or expanded at will, although such possibilities may exist for certain other United Nations organs.
>
> Since its establishment in 1946, the Court has had to deal with 76 disputes between States and 22 requests for an advisory opinion. Of those, 28 of the contentious cases were brought before the Court since the 1980s. Whereas in the seventies the Court characteristically had one or two cases at a time on its docket, from the early eighties there has been a marked increase in recourse to the Court. Throughout the 1990s the figures have been large, standing at 9 in 1990, 12 in 1991, 13 in the years 1992-1995, 12 in 1996, 9 in 1997. Ten cases are currently pending.
>
> In reality, there is a still larger number of matters awaiting the Court's decision. This is because the jurisdiction of the Court being based on consent, there are often 'cases within cases' to determine

questions of jurisdiction and admissibility when this is contested by one of the parties. Such preliminary issues are being or have been raised in the current cases of *Land and Maritime Boundary between Cameroon and Nigeria; Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Bosnia and Herzegovina* v. *Yugoslavia); Maritime Delimitation and Territorial Questions between Qatar and Bahrain; Oil Platforms (Iran* v. *United States of America); Fisheries Jurisdiction (Spain* v. *Canada); Questions of Interpretation and Application of the 1971 Montreal Convention arising from the Aerial Incident at Lockerbie (Libyan Arab Jamahiriya* v. *United Kingdom) (Libyan Arab Jamahiriya* v. *United States of America)*. Just as in proceedings on the merits, these preliminary questions have to be dealt with by multiple rounds of written pleadings, oral arguments, deliberations and judgments, thus considerably multiplying further the 'real' number of cases on the Court's docket at any given time. In certain recent cases the respondent State has not only replied on the merits but has also brought counter-claims *(Oil Platforms; Genocide)*. The admissibility of the counter-claims and the subsequent exchanges of pleadings that they engender have given rise to yet further 'cases within cases' upon the Court's listed docket.

Furthermore, it is not uncommon for the Court suddenly to receive a request for provisional measures. Such a request takes priority over everything else and entails written pleadings, hearings, deliberations and an order issued by the Court. During the last 2½ years there have been three such cases on provisional measures.

It must be appreciated that the Court deals with cases involving sovereign States, bearing on issues of great importance and complexity, in which the States have mobilized their full resources to submit heavy written pleadings and present detailed oral argument. In order to cope with such cases, the practice has been that after reviewing the written and oral pleadings each judge of the Court prepares a written Note – in fact a detailed analysis of the legal issues and the judicial conclusions that follow. Each judge then studies the Notes of his or her colleagues before engaging in deliberations on the various complex issues. At the end of these deliberations – which may last over several days – a drafting committee is selected to prepare the Court's judgment or opinion. All judges then prepare comments and amendments to the draft judgment or opinion, which is further refined by the drafting committee and put again before the Court, before being adopted in its final form. The fashioning of the Court's decisions accordingly brings to bear the contributions of every Member of the Court, as befits a court of universal composition and mission.

The evidence is clear, both from the history of the Permanent Court of International Justice and of this Court, that judicial recourse is resorted to more frequently in times of détente rather than of tension. The increasing tendency to bring cases to the Court by Special

Agreement is testimony to this. Further, more and more multilateral conventions include reference clauses to the International Court for the settlement of disputes. Moreover, 13 more States today accept the 'optional clause' under Article 36, paragraph 2, of the Statute, allowing cases to be brought against them by States accepting the same obligation, than was the case in the early eighties. There is thus every reason to suppose that the rise since this period in the number of cases coming to the Court represents a fundamental change, which is likely to endure and perhaps expand.

The Effects of This Increased Workload

This increase in the Court's workload has had multiple effects, which may be briefly summarized. The essential backdrop is that the Court receives a modest annual budget of less than 11 million dollars – a sum not much larger, in real terms, than when the Court had little work in the 1960s and 1970s. The Court was granted some expansion in the size of the permanent staff of the Registry, from the beginning of the 1980s until the early 1990s. The Court is grateful to the General Assembly for that, which had largely to be directed to the legal staff and to providing some secretaries for the judges.

However, the growth in the Court's work has been such that the increase has turned out to be insufficient.

Moreover, the problems of the Court were compounded in 1996 when it lost posts which have not been restored, and sustained a significant budgetary cut. Greater demands are being made on the small Registry of the Court (57 staff in its totality, from the Registrar himself to 2 messengers) for its research and legal, library and documentary services, and especially for translation and secretarial services. The workload of the Members of the Court and of the staff, in real terms, has thus relentlessly increased. Indeed, the obligations of the Court to fulfil its functions under the Charter and Statute has meant that the Registry is sometimes being asked to perform tasks that are quite simply physically impossible under the present staffing and budgetary régime.

By the terms of Article 39 of the Statute, the official languages of the Court are French and English. Whether in a contentious case or advisory proceedings, all the essential elements must be available in the two languages: acts instituting proceedings, the written pleadings (Memorial, Counter-Memorial, Reply and Rejoinder, including their often extensive annexes or written statements in advisory proceedings), internal distributions of the Court linked to the cases, rounds of oral proceedings, press communiqués, judges' Notes, orders, the judgment or advisory opinion, separate and/or dissenting opinions and declarations. From 1 January 1994 until 15 May 1998 more than 8½ million words in this category have been translated.

It is also necessary to translate documents less immediately connected with particular cases, but without which the Court cannot function – office circulars, press communiqués about matters other than specific cases, records of the meetings of the Court. In the same period more than half a million words of this kind have been translated.

The Court translates no more than it needs to. In 1996 and 1997 decisions were taken whereby *in extenso* records would no longer be prepared for the internal meetings of the Court, as well as those of the Administrative and Budgetary Committee and of the Rules Committee. Usually only a short resumé of the matters decided would henceforth be recorded, and translated.

The pace of the Court's work essentially depends upon the speed at which reliable translations can be produced and necessary revisions put in place. The productivity of translation staff in respect of the total of 9 million words translated between 1994 and 1998 is significantly higher than the required United Nations rate. Yet the task remains overwhelming and the financial implications deeply disturbing. Parties produce ever-longer pleadings and annexes; the Court has more cases; but it is required to operate on a diminished and wholly inadequate base of resource. The average length of a procedure before the Court has gone from two and a half to four years. At certain moments in the Court's budgetary cycle an extraordinary tension exists between the need to preserve an operational balance of the remaining funds for the biennium and the need to proceed with translation so that the Court can continue with its judicial work. The maintenance of the Court's work is thus put in serious jeopardy.

The greater workload of the Court has also meant that for judges and Registry professionals, secretarial support, already modest, has become quite inadequate.

In its 1996-1997 budget submission, the Court proposed the conversion of seven temporary posts to permanent posts, to obtain more secretaries (though still not a secretary for each judge), a finance assistant for the installation, maintenance and management of computer systems, and translators and clerk-typists. At the end of the budgetary process, the decision taken was only to allocate three temporary posts. As a consequence, the Registry in 1996-1997 was required to function with only four posts in Language Services and four posts in the typing pool.

The increased workload of the Court has meant that the Court is also understaffed so far as its legal staff is concerned. As of 1998 it has a staff of six officers to cover all its legal and diplomatic needs. None serve as clerks to the judges.

Faced with these realities, in its 1998-1999 budget submission, the Court again proposed the reinstatement of the four lost temporary posts (two translators and two typists). These requests fell far short of what the Court actually needs to fulfil its functions under the

Charter and Statute. The translation posts were not approved, though additional funds were added to the budget for temporary assistance for meetings.

The Registry is using all means to deal with these problems, including attempting to recruit translators under one-year fixed-term contracts and utilizing external translators outside the premises. The outsourcing of translation nonetheless entails administrative burdens, for which staff support is lacking.

The Court has appreciated the unfreezing, in the last budget allocation, of three previously frozen posts. This has allowed the Court to fill the post of Head of Language Services and to appoint an Indexer and an Information Officer. The burden upon the Information Services has been particularly acute, as there is not even a secretary or administrative assistant. This post is urgently needed to allow the two professional officers to use their time more efficiently and appropriately. The Court has but one telephone for the use of the press. It requires a properly equipped press room.

It must also be mentioned that the Court's compliance with the mandated reduction of $885,600 in its 1996-1997 budget has meant that, in effect, its budget for external printing purposes was cut by over 50 per cent. Publication of the pleadings of cases has since 1983 been sporadic; and there has been no publication of pleadings received since 1990. In spite of the effort of the Court to maintain a good production rate, the backlog grows to huge proportions. If the work of the Court is not widely accessible, its contribution to the prevention of conflicts and the peaceful settlement of disputes cannot be attained.

The Court has set up a new Computerization Department, composed of two persons, drawing upon personnel of the Finance Department. This has left this latter department very hard pressed.

The Response of the Court to the Double Challenge of an Increased Workload and an Insufficiency of Resources

The Court has responded with determination to operate an increased workload with maximum efficiency. This drive for efficiency comprises several elements.

Rationalization of the Registry

In order to come to terms with a situation in which the workload of the Court has increased and the means at its disposal has decreased, the Court created a sub-committee to examine the work methods in the Registry and to make proposals for their rationalization and improvement. The Sub-Committee on Rationalization has intensively reviewed all component parts of the Registry and, in November 1997, presented a report containing observations and recommendations on the administration of the Registry as a whole, as well as observations and recommendations regarding the individual divisions of the Registry. The recommendations concerned work methods, management questions and the organizational set-up of the Registry. The Sub-Committee in particular recommended some measures of decentralization and reorganization be implemented in the Registry. The Court accepted, in December 1997, virtually all recommendations of the Sub-Committee on Rationalization and these decisions of the Court are being implemented. They have been passed to the Advisory Committee for Administrative and Budgetary Questions (ACABQ).

Information technology

In order to maximize its efficiency and in compliance with the recommendations of the General Assembly the Court has taken full advantage, within its budgetary means, of electronic techniques.

Since 1993 there has been established at the Court an internal computer network which enables the Members of the Court and its staff to use advanced software programmes, send internal e-mail and share documents and data bases. This has resulted in increased efficiency and in cost savings. In particular, lawyers and translators can, through means of the indexing software, research a vast array of documentation to find legal terminology, precedents, citations and quotations. In turn, the use of the indexing software considerably facilitates efficient translation of documents. The Court has also sought to decrease the typing workload by encouraging parties to submit their documents in digital format. Such digital documents are also included in the Court's indexing database. If funds were to be provided to computerize the Court's case-law and archives, the system would be far more effective still.

More recently, the Court has established a very successful website on the Internet as well as mirror sites in various universities. This immediately well-used and popular facility not only has raised the Court's profile but also has transformed the way the Court communicates its orders, opinions and judgments. It is no longer necessary so often to distribute pre-publication documents of this category by mail to Foreign Offices, Legal Advisers, international organizations, embassies and academics; these users turn routinely to the Court's website to follow its work and to draw down whatever documentation they require.

The Court's website contains, as well as fundamental constitutional documents, judgments and other legal documents issued as from the time of the establishment of the site along with the written and oral pleadings of the parties. However, because of the Court's very limited resources, it has not been possible, as noted above, to scan past orders, judgments and opinions from the years 1946-1997, though such data is important both to States deciding whether to submit a dispute to the Court and to those currently engaged in litigation.

Furthermore, the continuous development and expansion of the website in its coverage of all contemporary material is essentially being carried out by one Registry staff member, already burdened with many other functions. Assistance is urgently needed. What can be achieved with such a technical post would still represent a considerable net saving for the Court, both directly and in terms of increased efficiency of operations.

The development of an e-mail facility in the Registry has also meant that translators can submit translations for review from any locality in the world (while confidentiality remains assured), thus saving costs on travel to the Court that was previously necessary. The travel element in the budget for temporary assistance in translating, interpreting and typing has now become more modest.

An internal website – an intranet – is also under development. This will contain not only all the documents available on the Internet site but also other centralized documents and data bases intended solely for internal use within the Court.

This will enhance operational efficiency still further.

Streamlined work procedures

The Court also charged its Rules Committee with developing proposals to maximize efficiency. It was asked particularly to address the growing gap between the ending of the written phase of proceedings and the start of the oral phase – a gap caused by the backlog the Court has to work through. As a result the Court has adopted an important series of measures, reported in summary by President Schwebel in his address to the General Assembly on 27 October 1997. The Court has also identified ways in which States appearing before it could assist in the expeditious disposal of the Court's work. To that end, a Note will be given to the agents representing the parties to new cases at their first meeting with the Registrar. The measures concerning the Court itself, and those concerning the parties, together with the Note on the latter, are the subject of Press Communiqué 98/14 of 6 April 1998.

Measures applying particularly to the Court

1. It has been the longstanding practice for each judge, upon the conclusion of the oral proceedings of a case, to prepare a written Note analysing the key issues in the case. These Notes are translated and circulated for study before the judges meet to deliberate on a case. The Court has now determined that it may proceed without written Notes where it considers it necessary, in suitable cases concerning preliminary phases of the proceedings on the merits (e.g., objections to the jurisdiction of the Court or the admissibility of an Application). This is already the practice, because of the urgency in the case of requests for interim measures of protection. This departure will be on an experimental basis.

The traditional practice regarding the preparation of written Notes will be maintained in phases of cases in which the Court is to decide on the merits.

2. When the Court has to adjudicate on two cases concerning its jurisdiction, it will be able to hear them 'back-to-back' (that is to say, in immediate succession), so that work may then proceed on them concurrently. This innovation will be undertaken on an experimental basis, where there are appropriate cases and a pressing need to proceed rapidly.
3. The Court confirmed its recent practice of trying to give the parties notice of its intended schedule for the next three cases, believing that such 'forward planning' assists both States and their counsel, and the Court. This planning *may* allow a case to be brought on with less difficulty, if the preceding one has been withdrawn.

Measures applying particularly to the parties

These measures aim to reduce the length of both the written and oral proceedings, as well as the time that elapses between the end of the written proceedings and the opening of hearings. To that end, a Note will be given to the agents representing the parties to new cases at their first meeting with the Registrar.

1. In cases submitted by two States before the Court by mutual consent (Special Agreement), the Court will permit written pleadings to be filed consecutively by the parties, and not simultaneously as provided in principle by the Rules of Court. Such a procedure could, in that type of case, moderate the number of exchanges of written pleadings.
2. With regard to the written proceedings in general, the Court has asked the parties to see to it that the content of memorials is clear and that the annexes are more strictly selected. The parties are also asked to supply all or part of any available translations of the written pleadings.
3. The Court drew the attention of the parties to the succinctness required of the hearings, especially when dealing with preliminary phases of the proceedings on the merits.

A text of the Note to be given to the parties is appended [see p. 284 below].

These revised working methods are already in operation.

The Court is working at full stretch, and with longer working hours for the judges and Registry, and assiduous attention to maximizing efficient use of the resources which have been made available to us. The manner in which the Court was able to deal with the urgent application from Paraguay in April this year is testimony to this. The Application was received on 3 April; by 9 April the Court had met, heard legal argument, deliberated and handed down its

Order (which was immediately available in print and upon the Court's website).

What the Court Needs

Since the beginning of the 1980s the International Court of Justice has been struggling to deal with a very heavy docket of cases with a relatively modest increase in resources. The initial increase in resources in those years has been prejudiced by the later cuts which have been imposed on the Court. And the modest budget allotted to the Court is a minute and diminishing proportion of the United Nations budget.

The Court has throughout this period been sensitive to the budgetary problems being faced by the United Nations and its budgetary requests have accordingly been moderate, reflecting great self-restraint even in the face of real difficulties. The Court has tried, in significant measure, to address the problems associated with the increased workload by imposing upon itself longer working hours and more rigorous working conditions. It has also tried to cope with the increased workload by taking every opportunity to improve its efficiency. The introduction of intranet and internet facilities, the use of electronic methods, the increasing professionalism of its publicity, the revision of its work methods, the suggestions made in turn to States parties appearing before it, all testify to this determination. In the execution of its insistence upon efficiency, the Court has been dynamic and forward-looking.

However, two elements remain clear. The first is that these efforts and improvements – notwithstanding their inherent value – cannot alone achieve a tolerable professional environment in which to render judicial justice. The time has come for the General Assembly to provide the necessary increase in resources to match the internal efforts already made by the Court itself, so that a major organ of the United Nations can carry out the single task allocated to it under the Charter – the settlement of disputes between States and the provision of advisory opinions in accordance with international law. The truth is that in failing to provide the necessary resources, notwithstanding all the efforts made by the Court itself, the General Assembly is diminishing the importance it attaches to the peaceful resolution of international disputes through law.

Secondly, the Court notes that although the General Assembly is operating under great financial constraints, it has nonetheless found the means to support other judicial bodies. In this context, the Court observes that it has an annual budget of approximately $11 million while the 1997 budget of the International Criminal Tribunal for the Former Yugoslavia stands at $70 million. The Court is aware that that Tribunal has certain needs which it itself does not have (for example, for investigators in the field, or witness protection programmes). But the Court does need that which is essential for every judicial body to function. And even as regards this common element the Court and the Tribunal do not receive comparable treatment.

Thus the General Assembly has recently adopted budgetary provisions for the International Criminal Tribunal for the Former Yugoslavia granting it further permanent posts. Among these were 22 legal personnel, to provide clerks for each judge (with the rest serving in the Registry). The judges of the International Court have no such legal clerks at all.

There is a minimum that the Court requires in order to make its full contribution to conflict prevention and dispute settlement, one of the major tasks of our times. There are certain unavoidable needs. Because the translation services are so understaffed, three extra posts are severely needed. In the tiny Press and Information Department, a clerical and administrative officer is a necessity together with proper press facilities. For computerization, the Court seeks appropriate scanning equipment, together with the transformation of a fixed-term post to a permanent post as well as one new additional post. The Court is studying both how to clear the backlog in publications and how in the future its publications can be carried out in the most efficient way. Its budget application will reflect its conclusions, both with regards to personnel and to available contemporary technology. And, for all the reasons described above, the Court regards it as essential to expand the staff of the Archives Department, to engage two messengers/drivers and, at the very minimum, to upgrade a post within the Department of Legal Affairs. In addition, the Court will seek a pool of clerks to assist the Members of the Court, a pool of interns for the Registry, a secretary for each judge and a professional assistant for the President. These will be among the budgetary proposals to be advanced for the next biennium, elements of which may even be made in an earlier request should the situation so require.

In the meantime, the Court will continue its judicial work with dedication and vigour.

Note

1. The International Court of Justice recently carried out a re-examination of its working methods and took various decisions in this respect, bearing in mind both the congested state of the List and the budgetary constraints it has to face.

2. Some of these decisions concern the working methods of the Court itself. In outline, these measures, directed towards accelerating the Court's work, were brought to the attention of the United Nations General Assembly by the President of the Court at the Assembly's fifty-second session on 27 October 1997 (A/52/PV.36, pp. 1-5). The Court took a further series of decisions, also directed

towards accelerating its work, in regard to various administrative matters.

3. The Court would further be grateful to parties for their assistance, and wishes in this connection to offer them the following guidance:

(a) It should be noted that, in cases brought by Special Agreement, written pleadings are ordinarily filed simultaneously and not consecutively, in accordance with Article 46 of the Rules of Court. In such proceedings, the parties have occasionally tended to wait until they have known the other party's arguments before fully revealing their own. This has possibly resulted in a proliferation of pleadings and delay in the compilation of case files. The Court would therefore point out that the simultaneous filing by parties of their written pleadings is not an absolute rule in such circumstances. The Court, for its part, would see nothing but advantages if, in these cases, the parties agreed, in accordance with Article 46, paragraph 2, of the Rules of Court, to file their pleadings alternately.

(b) Each of the parties should, in drawing up its written pleadings, bear in mind the fact that these pleadings are intended not only to reply to the submissions and arguments of the other party, but also, and above all, to present clearly the submissions and arguments of the party which is filing the pleadings. In the light of this, any summary of the reasoning of the parties at the conclusion of the written proceedings would be welcome.

(c) The Court has noticed an excessive tendency towards the proliferation and protraction of annexes to written pleadings. It strongly urges parties to append to their pleadings only strictly selected documents. In order to ease their task at this stage of the proceedings, the Court will, acting by virtue of Article 56 of the Rules of Court, more readily accept the production of additional documents during the period beginning with the close of the written proceedings and ending one month before the opening of the oral proceedings.

(d) Where one or other of the parties has a full or a partial translation of its own pleadings or of those of the other party in the second working language of the Court, the Registry would be glad to receive those translations. The same applies to the annexes. Once the Registry has examined the documents so received, it will communicate them to the other party and inform it of the manner in which they were prepared.

(e) The Court draws the attention of parties to the fact that, according to Article 60, paragraph 1, of the Rules of Court:

> '1. The oral statements made on behalf of each party shall be as succinct as possible within the limits of what is requisite for the adequate presentation of that party's contentions at

> the hearing. Accordingly, they shall be directed to the issues that still divide the parties, and shall not go over the whole ground covered by the pleadings, or merely repeat the facts and arguments these contain.'

These provisions must of course be complied with, especially when objections of lack of jurisdiction or of inadmissibility are being considered. In those latter events, pleadings must *inter alia* be limited to a statement of the objections and exhibit the requisite degree of brevity."

2. ACTION PURSUANT TO AN ADVISORY OPINION OF THE COURT

The present heading contains the information received in the Registry between 1 August 1997 and 31 July 1998 concerning action taken pursuant to an Advisory Opinion of the Court. The Registry, which does not take the initiative of seeking such information, publishes it without comment as and when it is received and can accept no responsibility in connection with it.

Legality of the Threat or Use of Nuclear Weapons

By a note dated 15 October 1996 the Secretary-General of the United Nations transmitted the text of the Advisory Opinion given by the Court on 8 July 1996[1] to the General Assembly (United Nations doc. A/51/218).

At the 79th plenary meeting of its fifty-second session, held on 10 December 1996, the General Assembly adopted resolution 51/45 M, the full text of which is reproduced in *I.C.J. Yearbook 1996-1997*, pp. 205-206.

At the 67th plenary meeting of its fifty-second session, held on 9 December 1997, the General Assembly adopted resolution 52/38 O, the full text of which reads as follows:

> "Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*
>
> *The General Assembly,*
>
> *Recalling* its resolutions 49/75 K of 15 December 1994 and 51/45 M of 10 December 1996,
>
> *Convinced* that the continuing existence of nuclear weapons poses a threat to all humanity and that their use would have catastrophic consequences for all life on earth, and recognizing that the only defence against a nuclear catastrophe is the total elimination of nuclear weapons and the certainty that they will never be produced again,

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[1] See *I.C.J. Yearbook 1995-1996*, pp. 212-223.

Mindful of the solemn obligations of States parties, undertaken in article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, particularly to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament,

Recalling the principles and objectives for nuclear non-proliferation and disarmament adopted at the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, and in particular the objective of determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons,

Recalling also the adoption of the Comprehensive Nuclear-Test Ban Treaty in its resolution 50/245 of 10 September 1996,

Recognizing with satisfaction that the Antarctic Treaty and the treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba are gradually freeing the entire southern hemisphere and adjacent areas covered by those treaties from nuclear weapons,

Noting the efforts by the States possessing the largest inventories of nuclear weapons to reduce their stockpiles of such weapons through bilateral and unilateral agreements or arrangements, and calling for the intensification of such efforts to accelerate the significant reduction of nuclear-weapon arsenals,

Recognizing the need for a multilaterally negotiated and legally binding instrument to assure non-nuclear-weapon States against the threat or use of nuclear weapons,

Reaffirming the central role of the Conference on Disarmament as the single multilateral disarmament negotiating forum, and regretting the lack of progress in disarmament negotiations, particularly nuclear disarmament, in the Conference on Disarmament during its 1997 session,

Emphasizing the need for the Conference on Disarmament to commence negotiations on a phased programme for the complete elimination of nuclear weapons with a specified framework of time,

Desiring to achieve the objective of a legally binding prohibition of the development, production, testing, deployment, stockpiling, threat or use of nuclear weapons and their destruction under effective international control,

Recalling the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*, issued on 8 July 1996,

1. *Underlines once again* the unanimous conclusion of the International Court of Justice that there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading

to nuclear disarmament in all its aspects under strict and effective international control;

2. *Calls once again upon* all States immediately to fulfil that obligation by commencing multilateral negotiations in 1998 leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination;

3. *Requests* all States to inform the Secretary-General of the efforts and measures they have taken on the implementation of the present resolution and nuclear disarmament, and requests the Secretary-General to apprise the General Assembly of that information at its fifty-third session;

4. *Decides* to include in the provisional agenda of its fifty-third session the item entitled 'Follow-up to the advisory opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*'."

3. THE ROLE AND FUNCTIONING OF THE COURT

At the 36th meeting of the fifty-second session of the General Assembly, held on 27 October 1997, at which the Assembly took note of the report of the Court for the period from 1 August 1996 to 31 July 1997 (see above, p. 274). The President of the Court, Judge Stephen M. Schwebel, gave the following address:

> "It is an honour for me to address the General Assembly on the occasion of its consideration of the Annual Report of the International Court of Justice for the period August 1996 to August 1997. Speaking to the General Assembly on the Court's Report is a tradition which was initiated by Sir Robert Jennings during his presidency of the Court, and it is one that I am happy to maintain, as did my immediate predecessor as President, Judge Bedjaoui.
>
> It is a particular pleasure to speak to a General Assembly that meets under the presidency of Foreign Minister Udovenko. He is a leader of a State which recently has taken an important positive step in support of the Court's jurisdiction.
>
> This is the year in which the Organization welcomed Mr. Kofi Annan as its new Secretary-General. Among the highlights of the year for the Court was the visit to The Hague by the Secretary-General, in March, shortly after he took office. Members of the Court took great pleasure in Mr. Annan's visit and in having the opportunity to discuss with him, in depth, matters of current concern to the Court and to the United Nations. It was in a very real sense a working visit. The Court appreciated the profound interest in its work which that visit represented, and the impetus it gave to it.
>
> The Secretary-General in visiting The Hague visited what is increasingly seen as the judicial capital of the world. The Court is

appreciative of the facilities of The Hague and the courtesies of the host Government. It is appreciative of the support of the host Government and the United Nations in extending the Peace Palace to accommodate the many judges *ad hoc* and the staff of the Registry, extensions which have been notably successful. It looks forward to the celebrations of the centenary of the Hague Peace Conference of 1899, and it follows with high interest the negotiations in respect of the establishment of an international criminal court.

In the period under review, the Court gave a Judgment on 12 December 1996 upholding its jurisdiction in the case concerning *Oil Platforms* brought by the Islamic Republic of Iran against the United States of America. It then turned its attention to the case concerning the *Gabčikovo-Nagymaros Project*, brought by Special Agreement between Hungary and Slovakia. It concerned a project for the joint construction of dams on the Danube River – and very much more. Quite apart from the exceptional amount of public interest this case aroused in those countries, and the variety of difficult and challenging issues it raised – fundamental issues of the law of treaties, environmental law, the law of international watercourses and of State succession and State responsibility – the case presented a number of distinctive features which called upon the Court's resourcefulness.

The volume of pleadings and documentary annexes filed exceeded 5,000 pages. There have been other cases of like or larger dimension of pleadings – such as *South West Africa*, *Barcelona Traction*, some *Continental Shelf* cases, *Military and Paramilitary Activities in and against Nicaragua* – but the majority of cases produce pleadings less massive. The *Gabčikovo-Nagymaros* pleadings and annexes placed a considerable burden on the Court's tiny translation services and on its budget.

The case also gave the Court the unique opportunity, between two rounds of oral hearings, at the joint invitation of the Parties 'to exercise its functions with regard to the obtaining of evidence at a place or locality to which the case relates'. [A/52/4, para. 108.] This procedure is poetically known in French as a *'descente sur les lieux'*; in English we have come to call it a 'site visit'. The Parties agreed on the detailed itinerary, content and logistical arrangements of the visit, and the full Court spent four days visiting locations along the Danube between Bratislava and Budapest, accompanied by representatives of the two States and their scientific advisers. The Court looked, listened, asked many questions, and gained a new dimension of insight into the case and what it meant to the Parties – much more than could have been gleaned from confining the proceedings to The Hague. I might add that it was all organized by the Parties with admirable efficiency.

I use the word 'unique' because it was the first time in the history of the present Court that such a working visit to a site of the dispute had been undertaken. The visit was not entirely unprecedented. Almost 60 years ago, in May 1937, the Permanent Court of International Justice spent two days visiting a number of locations rather closer to the seat of the Court, along the River Meuse between Maastricht and Antwerp in connection with a dispute between the Netherlands and Belgium in the case concerning the *Diversion of Water from the Meuse*. The published record of that visit is terse, but even so, the parallels between the two exercises – as between the cases themselves and the character of the visits – turned out to be striking.

There have been other occasions when such visits were requested by one party or canvassed but for various reasons were not carried out by the Court. Clearly, the issues of law can usually be decided without such an exercise. In the exceptional case in which a site visit would be useful, it would depend upon a high degree of co-operation between the States concerned, and one can imagine only some contentious cases in which the situation on the ground may lend itself to carrying out a site visit. There are also financial implications for the States concerned. However, the successful completion of this valuable procedure in the *Gabčíkovo* case is suggestive.

The Court gave its Judgment in the *Gabčíkovo* case on 24 September. The importance of that Judgment not only for Hungary and Slovakia, but for the interpretation, application and development of international law, is considerable. It is a judgment of significance for the law of treaties, of State responsibility, of international watercourses, of the environment, and of State succession.

The *Gabčíkovo* Judgment is notable, moreover, because of the breadth and depth of the importance given in it to the work product of the International Law Commission. The Court's Judgment not only draws on treaties concluded pursuant to the Commission's proceedings – those on the law of treaties, of State succession in respect of treaties, and the law of international watercourses. It also gives great weight to some of the Commission's Draft Articles on State Responsibility, as did both Hungary and Slovakia in their pleadings. This is not wholly exceptional; rather it illustrates the fact that just as the judgments and opinions of the Court have influenced the work of the International Law Commission, so the work of the Commission may influence that of the Court.

The *Gabčíkovo-Nagymaros* Judgment is noteworthy too because it is the first of the Court to be placed on the Court's own Internet website, and that on the day of delivery of the Judgment. There was great use made of this and we are confident that there will be of our website generally.

A last reason why the *Gabčíkovo-Nagymaros* case is of particular interest is that it is, in a sense, ongoing, even after that Judgment. This is because of the nature of the Parties' agreement as to what the role of the Court was to be. Essentially, in their Special Agreement, they handed over to the Court for resolution the legal aspects of a dispute which had deeply divided them at the political level, and which had proved intractable. The questions put by the Parties, precisely framed, were clearly and conclusively answered by the Court in accordance with international law. But that is not where it ends; the Special Agreement goes on to provide that the Parties shall 'Immediately after the transmission of the Judgment . . . enter into negotiations on the modalities for its execution.' It further provides that, 'If they are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment.'

So, in a very real sense, the function of the Court in this case has been to provide the Parties with the legal answers within which they may pursue their further negotiations: in other words, to advance the progress of their mutual search for a solution by assuming responsibility for defining the fundamental legal parameters of that process. It is for them to apply the Court's Judgment in taking their negotiations to a new level. In so doing, they will be directed not only by the Court's judgment about the law of the matter, about the legal rights and wrongs of the past. They will also be guided by the Court's views as to the practical content of future co-operative arrangements.

This recalls to mind the concept evoked by Sir Robert Jennings when he addressed the Assembly in October 1993, charting the tendency, already apparent then, for the Court to be seen not solely as a sort of judicial 'last resort', though it is that, but also as a 'partner in preventive diplomacy', a vital part of the machinery deployed by States in the course of dispute resolution, machinery by which judicial findings of fact and rulings of law may define the bounds of constructive negotiations. The Court is gratified by the continuing development of this role, as part of the fabric of diplomatic negotiation with which the members of the community of nations interact to further the principles of the Charter and of international law.

This is why it is important to take account, in any assessment of the Court's work, not only of the cases which have been the subject of judgments of the Court, and not only of disputes which are settled because of the prospect of resort to the Court, but also of those cases which, at a certain stage of the proceedings, have become ripe for and resulted in negotiated settlements.

There have been some telling examples in the past few years. Sir Robert mentioned two. One was the case on *Certain Phosphate Lands* between Nauru and Australia, which was settled after a judgment on jurisdiction and admissibility favourable to Nauru. The other was the *Great Belt* case between Finland and Denmark, which was, after issuance of an order on a request for the indication of provisional measures, settled very shortly before the expedited hearings on the merits were to start by negotiations which the Court had encouraged. The maritime delimitation case between Guinea-Bissau and Senegal also was discontinued by agreement, in the wake of a judgment of the Court in a related case between those States. And, in another settlement, like that of the *Great Belt* made virtually on the courthouse steps, hearings due to take place in the *Aerial Incident* case between the Islamic Republic of Iran and the United States of America were postponed *sine die* at the request of the Parties in 1994. Subsequently the case was settled.

These breakthroughs in negotiation are to be welcomed. They do, however, pose certain problems for the Court in terms of deployment of its scarce resources, and I will return to this point in a moment.

My distinguished predecessor as President, Judge Bedjaoui, took up the theme of the Court's advisory function, its under-utilization and its potential for expansion to a wider spectrum of organs and agencies. Since then, as the Assembly is aware, the Court has given two important Advisory Opinions in July 1996, one at the request of the World Health Organization on the *Legality of the Use by a State of Nuclear Weapons in Armed Conflict*, and the other at the request of the General Assembly itself, on the *Legality of the Threat or Use of Nuclear Weapons*. The Court has noted the response of the General Assembly in resolution 51/45 M, to the Court's Opinion, and its decision to include in the provisional agenda of its fifty-second session an item entitled 'Follow-up to the Advisory Opinion of the International Court of Justice on the *Legality of the Threat or Use of Nuclear Weapons*'.

The limitations on the role of the Court can be structural, jurisdictional or circumstantial. Of the latter, the most obvious and immediate are resource constraints, notably, shortage of staff and money. The Court, a principal organ of the United Nations and, at the same time, in terms of staff and budget a very small fraction of it, has suffered severely over the current budgetary biennium from budgetary and staff cuts. However, the Secretary-General and his colleagues, and the Assembly itself, have been responsive in helping the Court to deal with its difficulties, with the fortuitous assistance of a rise in the value of the dollar. Their commitment to, and understanding of, the proper functioning of the Court as its Statute requires, is a matter of profound appreciation by the Court.

The Court continues to confront a heavy caseload under severe financial constraints. Resources are scarce, and must be wisely deployed. Even though we have made some changes in the way in which we handle translation, our resources in this field are barely sufficient for the needs of immediately pending cases. There is no room for forward planning in the sense of embarking on the translation of cases which are not close to being ready for hearing, as there is simply no way of funding it. Moreover, there is uncertainty about whether it will be a wasted effort in the event of a settlement of the case before hearing. This is why the consequences of an unpredicted settlement on the courthouse steps, however desirable it may be for the parties and for the broader interests of dispute resolution, can be disruptive of the Court's carefully resourced schedule of work. It is hard, in the present financial climate, to have a fallback position, especially at the merits phase of a case – that is, to have another case which is fully translated and ready for hearing, and which can be brought forward at short notice. While in an ideal world, this would be desirable, in any event there is always an amplitude of pleadings requiring study by the Members of the Court. The Court is at work even when it is not publicly sitting.

A fundamental consideration is the undoubted strength of the Court sitting in The Hague in its full composition. First, it can truly claim to be universal; its Members together represent the main forms of civilization and the principal legal systems of the world. Second, in combining both oral and written phases of procedure, it marries the key features of the common and civil law systems. The bench brings to bear the distinctive analytical techniques of both. At the same time, the Court's attitude towards evidence is demonstrably flexible. And lastly – and this is important – its decision-making process, carefully elaborated in the 1976 Resolution on the Internal Judicial Practice of the Court, is structured so as to permit each and every Member of the Court to participate on an equal footing while maintaining the forward momentum of the drafting work.

On examining this Resolution, one is struck by the careful balance of considerations of equality and discipline; and also by the importance of having an agreed structure and sequence to serve as the framework for the Court's deliberations. It is a coherent and co-ordinated process, with the emphasis squarely on the collective nature of the exercise. Consistently with this philosophy, judges who might append separate or dissenting opinions still participate fully in the discussions, and influence the contents of the Court's work, so that the judgment is in every sense the judgment of the whole Court. Those opinions are produced in the same time-frame as the judgment, and are included with the text on the date it is rendered, rather than weeks or months later. If only because of the time it saves which might otherwise be spent in discussing how to proceed – which can happen in arbitration at a cost to the parties – the Court's established practice is a boon; and there is more to commend in it than that.

At the same time, any busy court must periodically review its procedures to ensure that they meet the needs of the day. In the last dozen years the Court has become much busier while in the last few years operating under sharp financial restrictions.

Because of their very nature, the proceedings of the Court cannot be swift – apart from provisional measures or the occasional urgent advisory opinion. The Court's procedures are designed to allow the institution judiciously to fulfil its unique and vital function in the service of international law, and to protect and uphold certain fundamental judicial principles. That function and those principles remain vital.

It is desirable that cases should be dealt with as expeditiously as possible, consistent with justice and with the highest levels of professional care. States themselves often require substantial periods of time for the preparation of their written pleadings. At the same time, with the increase in the Court's caseload in recent years, the time that elapses between the date when a case or a phase of a case is ready for a hearing, and when a case actually is heard, is too long, because the Court is still dealing with prior cases. The Court has been studying how best this problem may be addressed.

It charged its Rules Committee with developing proposals to maximize the Court's efficiency. The Court has recently adopted a range of alterations to its working practices. Some of these will involve the parties, and some only the Court. The Court will inform parties to litigation of the new procedures that it proposes that may affect them. For instance, a new case cannot, of course, be heard until its pleadings are ready in both French and English. Because the translation of voluminous annexes of documents is expensive and time consuming, it is to be hoped that the parties to cases before the Court will exercise every care to ensure that there are annexed to pleadings only those documents, or sections of documents, that are really required.

As for the measures that relate to the Court itself, it has been the longstanding practice for each judge, upon the conclusion of the oral proceedings of a case, to prepare a written Note, of whatever length he or she thinks appropriate, analysing the key issues of law in the case. These Notes are translated and circulated for study before the judges meet to deliberate on a case. The Court has now determined that it may proceed without written Notes where it considers it necessary, in suitable cases concerning the jurisdiction of the Court or the admissibility of the application. This has already been the practice in the case of urgent requests for interim measures of protection. This departure will be on an experimental basis. The traditional practice regarding the preparation of written Notes will be continued with regard to cases in which the Court is to decide on the merits.

The Court has made further important decisions directed to accelerating its work. In particular, appropriate cases on jurisdiction may be heard 'back to back' – that is to say, in immediate succession – so that work may then proceed on them both concurrently. This innovation will be undertaken on an experimental basis, where there are appropriate cases and a pressing need to proceed rapidly.

The Court has also confirmed its recent practice in trying to give the parties notice of its intended schedule for the next three cases, believing that such forward planning assists both States and their counsel, and the Court.

In order to respond as best it may to the legitimate aspirations of States to have their cases heard as soon as possible, the Court has decided upon these measures and also upon a series of related and consequential changes in administrative and internal practices.

If States and the Court together co-operate along the lines I have indicated, we believe cases – including those on the current docket – can be ready for oral argument within an acceptable time after the conclusion of the written phase. States can come to the Court secure in the knowledge that their important legal disputes will be judicially resolved within a reasonable time.

Support for the Court from member States in its endeavour to continue to fulfil its statutory obligations in an optimal manner is, of course, most welcome. I note, in this connection, the proposals made by Mexico to the session of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization, held in January and February of this year. Mexico proposed that the International Court of Justice should be part of the ongoing process of reform and revitalization. Indeed it should.

However, I would urge member States to bear in mind that such initiatives must be developed within the framework of the Court's Statute, which is an integral part of the Charter. The Statute can be amended, but no more easily than the Charter itself; and any amendments would require the most careful consideration. The Court itself, in the last Article of its Statute, is given 'power to propose such amendments to the present Statute as it may deem necessary . . .'. Article 30 of the Statute gives the Court the sole power to frame rules for carrying out its functions, and in particular its rules of procedure. The Court has, and must continue to enjoy, complete autonomy in establishing its own practices and procedures if its judicial independence is to be preserved. Equally, if it is to operate as the Charter provides, the Court must be accorded the resources to do its work. These are the essential conditions for the Court to further 'the principles of justice and international law' to which the purposes of the United Nations Charter refer."

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On 30 October 1997, the President gave the following address to the Sixth Committee of the General Assembly:

"In recent years, the International Court of Justice has been busier than ever before in its fifty-year history. It has had as many as 13 cases on its list; currently it has eight. While that may sound modest, it is not, when it is recalled that only States may be parties to contentious cases before the Court. Thus the potential pool of litigants does not exceed 190. To that may be added the United Nations and its specialized agencies, which may request advisory opinions of the Court. They have requested 23 such opinions over the years, the most recent and important being the Court's 1996 Opinion in response to a question of the United Nations General Assembly on the *Legality of the Threat or Use of Nuclear Weapons*.

Moreover, the contentious jurisdiction of the Court is consensual; the parties must agree or have agreed to the Court's jurisdiction. In many international legal disputes they do not, a fact that consequently affects the extent of the docket of the Court.

Despite these fundamental limitations, the Court's current docket is substantial, consequential and broad. To give a sense of the range of the subject-matter presently before the Court, some of the issues at bar may be mentioned.

The *Qatar* v. *Bahrain* case involves problems of the resolution of territorial claims and the delimitation of maritime boundaries, questions in which the Court has specialized with considerable success.

The two cases brought by Libya, against the United Kingdom and the United States respectively, treat the applicability of the Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, and Libya's effort to interdict sanctions imposed by the United Nations Security Council because of its alleged involvement in the Lockerbie atrocity. They raise questions of the powers of the Security Council in relation to treaty rights of a party to a multilateral treaty, and questions of extradition and terrorism. The Court has recently concluded hearings on jurisdiction and admissibility in both these cases.

The *Oil Platforms* case concerns claims by Iran that the United States violated a bilateral Treaty of Amity, Commerce and Consular Rights by its attacks on Iranian oil platforms during the Iraq-Iran war; it raises questions not only of treaty interpretation but of aggression, self-defence, neutrality and the law of war.

Another major case before the Court is that of Bosnia and Herzegovina against Yugoslavia claiming violation of the Genocide Convention by Yugoslavia's alleged promotion and direction of acts of 'ethnic cleansing' in Bosnia.

The case between Cameroon and Nigeria concerns title to the Bakassi Peninsula as well as problems concerning the length of the boundary between the two States. The volatile situation on the ground has already been the subject of an Order for provisional measures. Preliminary objections have been filed to the jurisdiction of the Court.

There is also a case concerning Canada's seizure of a Spanish fishing vessel on the high seas in an area in which Canada claims the right to take protective measures to preserve fish stocks. This case, too, will involve a preliminary jurisdictional phase.

The most recent case, brought by Special Agreement between Botswana and Namibia, concerns title to a fluvial island.

The geographical spread of the parties currently before the Court is gratifying; it goes some way to compensate for the relatively low number of States – 60 – accepting compulsory jurisdiction under the optional clause.

In 1996, the Court issued a Judgment upholding jurisdiction in the *Oil Platforms* case; a Judgment upholding jurisdiction in the *Genocide* case; and it issued an Order for provisional measures in the *Land and Maritime Boundary* case brought by Cameroon against Nigeria. It also rendered two Advisory Opinions, one finding that the World Health Organization lacked authority to request an advisory opinion on the legality of the use of nuclear weapons, the other treating in terms that cannot be summed up in a phrase the complex and portentous question of the *Legality of the Threat or Use of Nuclear Weapons*.

In 1997, the Court has been fully occupied for the greater part of the year with the complex *Gabčíkovo* case, brought by Special Agreement between Hungary and Slovakia. Judgment was given on 25 September last. I described the case in plenary session, so I shall not do so today.

It will be appreciated from this summary of its docket and most recent decisions that the International Court of Justice is operating at a high level of activity. However, at the same time, the Court, as the principal judicial organ of the United Nations whose budget is entirely funded by it, has suffered, as the United Nations has itself suffered, from financial deprivation. The Court's budget is less than $11,000,000 a year, a minute and diminishing proportion of the Organization's budget. At a time when the international community has launched three new international courts and is considering establishing a fourth, it needs to fund adequately the supreme judicial organ of the international community, the International Court of Justice. The Court is working with the Secretary-General of the United Nations and his colleagues, and the ACABQ and the Fifth Committee, in an effort to mitigate its financial difficulties, but these remain severe.

If the Court were more adequately funded, it could deal more effectively with certain problems that mark its operations. Its publications of judgments and advisory opinions, and especially of pleadings, is badly in arrears. There have been insufficient staff to handle publicity about its work. The Judges of the Court, unlike other international courts and some national courts, have no clerks, no interns and little personal legal assistance; the legal staff of the Court's Registry is small and is devoted to assisting the Court as a whole. The translation staff is inadequate for the demands currently placed upon it.

These and other factors which have a bearing on the rate of productivity, or output, of the Court, are not always fully understood. If there is a perception that cases take long to come to judgment, it is not always based on an analysis of the essential processes involved.

States parties to a case before the Court engage in meticulous and lengthy preparation of their pleadings. With international teams of specialist counsel to co-ordinate and internal political approval processes to be gone through, they typically require many months to prepare their own pleadings and to review the other's party's pleadings. In a case brought by application, for example, the average time-limit for filing of the memorial and counter-memorial is one year and a half. In exceptional cases, such as the *Lockerbie* cases, it was three years – at the request of the parties. The process can be prolonged if there are preliminary objections to jurisdiction, necessitating additional filings and hearings prior to the merits phase, and a judgment on jurisdiction. Requests for extensions of time-limits for filing are not uncommon, and the Court does its best to accommodate them.

States of course have a sovereign right to present their case as they think fit; it is difficult to see how this could legitimately be fettered. But there is a natural, and understandable, tendency not to leave any stone unturned, or any potentially relevant document milked of its evidentiary possibilities. A court of fifteen or more judges may be impressed by a spectrum of different arguments and approaches, not always predictably. Counsel and advisers are under a professional obligation to make the best case for their client State, which may mean addressing all the options. This, coupled with technological advances and ease of document reproduction, may explain the large volume of pleadings and, especially documentary annexes, the Court has to translate, examine and digest in preparing for a hearing.

In a case begun by application, the Rules provide for the consecutive filing of a memorial by the applicant and a counter-memorial by the respondent. If the parties so agree, or if the Court decides that it is necessary, a reply and rejoinder may be scheduled; they almost invariably are.

In cases begun by a special agreement, the Court will normally sanction whatever filings the parties have agreed upon. In the absence of agreement each files a memorial, simultaneously, followed by a simultaneous counter-memorial. Replies shall be authorized only if the Court 'finds them to be necessary'. In practice it usually does, thus resulting in six written pleadings. This inevitably lengthens the whole process, increases the workload of the Court and its Registry, and complicates the task of the States themselves. Experience shows, furthermore, that parties are sometimes tempted, perhaps out of prudence, not to reveal their arguments completely at the memorial stage. This, more often than not, makes a third round of written pleadings inevitable, and it makes the task of reading, understanding and comparing the arguments all the more difficult.

Translation is another vital factor. Because each Member of the Court has the statutory right to choose to work in either English or French, so as to assure equality on the Bench all pleadings and documents must be translated from one to the other (except in the rare cases where parties can file pleadings in both). Moreover, neither French nor English is the native language of some Members of the Court and that fact may affect the pace of their work.

In the recent *Gabčikovo-Nagymaros* case, pleadings and documents amounted to some 5,000 pages. The burden on the Court's restricted and underfunded translation service is not hard to imagine, and the time it takes to produce adequate translations, even using outside resources where possible, is considerable. Nor can much be done in the way of advance preparation: translation resources have to be used sparingly, which means dedicating them to the next case which will be ready for hearing. Financial constraints are such that it is not possible to put in hand translations of documents in a case which may not be heard for some time and which may even be settled.

The Court's practice has been to hear cases, as far as possible, in the order in which they were instituted. So far, it has proved possible for the Court normally to handle the active phase of hearing and deliberation in only one case at a time, certainly only one case before the full Court on the merits. Again, this is dictated by the resources available. Allowing for provisional measures and other urgent matters, which arise and have to be inserted into the Court's timetable with priority, it does happen that written pleadings in a case will close long before a date can be set for oral hearings. This has occasioned some comment. But it is not always possible in view of the parties' wishes to accelerate the time of oral hearings or to reschedule a case to take the place of one which has been withdrawn or settled. Parties and their advisers themselves need – and insist upon – adequate notice and time to prepare. If apparent lacunae in the Court's schedule do occur, there is no shortage of pleadings that require study, as well as a variety of interlocutory and procedural matters in other pending cases, with which the judges will be fully occupied. All of the Court's cases are at different procedural stages; none of them is currently dormant.

At the same time, the Court's methods of work are not swift. They are designed – rightly designed – to enable a universal court of 15 judges, representing the principal legal systems and civilizations of the world, to deal with cases in a fashion which brings to bear the views of all 15 judges. Its working methods do that well. Nevertheless there may be room for a measure of reconsideration of them with a view to accelerating the rate of the Court's productivity without impairing its quality. That is another challenge which the Court has begun seriously to address. Like most of its problems, it may not be easy to resolve. But progress is being made, as I indicated in speaking on the Court's annual report in plenary session.

As to the actual hearings, the oral phase itself is not normally unduly long. Once a case is heard, the Court devotes its attention and resources to producing a judgment, following its well-established rules of internal judicial practice, as rapidly as is compatible with the meticulous interests of justice. The instrument governing the deliberative process, the 1976 Resolution on the Internal Judicial Practice of the Court, is structured so as to permit each Member to participate on an equal footing. After the close of oral arguments, the issues which require to be decided upon are agreed. Then each judge writes out his analysis of the issues of the case and his provisional solution to them in a note in one of the Court's official languages. This is then translated into the other official language and distributed to all of the judges for their study. These notes are substantial, and taken together constitute several hundred pages of text on average. They are an important working tool. The notes phase is followed by an in-depth deliberation, at which each judge speaks in turn, in inverse order of seniority. When a majority position on the points to be decided emerges, a drafting committee is elected from among the Members in the majority.

A first draft of the judgment will be produced, again in both languages, and circulated for comment. At this stage, written amendments are submitted which the drafting committee will consider in preparing its revised draft for the first reading, which is conducted by the full Court line by line, indeed word by word. The drafting committee then produces a revised text for second reading, taking account of modifications adopted or canvassed on the first reading. At the second reading, the text in final form is formally adopted by the Court.

Judges who might wish to append separate or dissenting opinions must prepare them in the same time-frame as the judgment. They participate fully in the discussions, so that the judgment is in every sense the judgment of the whole Court. The drafting committee may take separate and dissenting opinions into account in revising the draft judgment for the second reading. Such inclusory participation would be difficult without the discipline imposed by the Resolution on Judicial Practice.

Although it necessarily takes time to progress through each of its steps, it has the advantage of imposing a clear structure on this vital process. It ensures equality of participation of all Members and at the same time safeguards the forward momentum of the work.

All this is not to suggest that the ways in which the Court has worked may not be improved. Indeed as indicated earlier, the Court has been actively considering how it may accelerate the production of its judgments without impairing their quality and has adopted measures to that end. But I hope that these remarks may convey a sense not only of what the Court has been doing, but the care it takes in carrying out its high responsibilities."

CHAPTER VII

PUBLICATIONS OF THE COURT

The publications of the International Court of Justice are published by the Registry (Rules of Court, Art. 26, para. 1 *(i)*, and Art. 71, para. 6; Instructions for the Registry, Arts. 23, 43, 67-69 and 72).

Information about the publications of the present Court and those of its forerunner, the *Permanent Court of International Justice*, is given below[1].

I. GENERAL

1. Series Published by the International Court of Justice

The publications of the Court are at present classified in series as shown hereunder. Their size is 15.6 × 24 cm when they are published in paper covers and 16 × 24.5 cm when published in hard covers.

(a) *Reports of Judgments, Advisory Opinions and Orders*

This series contains the Reports of the decisions of the Court in both the English and the French texts. Each decision is published as soon as given, in an unbound fascicle which is sold separately[2]. To allow for binding, a continuous system of pagination is adopted for all the fascicles of any one year.

In January of each year, an analytical index is published of the previous year's decisions; this also may be purchased separately. A binder is available for those who obtain the separate fascicles and the index at the time of their publication. The collected decisions, with index, for each year may also be obtained ready bound together in one volume.

Forty-eight bound volumes have so far been published, the first being the *I.C.J. Reports* for the years 1947 and 1948, which are collected in a single volume. The latest is the volume for 1995. (The *I.C.J. Reports 1965, 1967, 1968, 1977, 1979* and *1983* are not indexed.)

Official citation of the series: *I.C.J. Reports*, with an indication of the year. For a separate fascicle the short title of the case and the nature of the decision should be given, e.g.: *Nottebohm, Preliminary Objection, Judgment, I.C.J. Reports 1953*, p. 111; or *Nottebohm, Order of 15 January 1954, I.C.J. Reports 1954*, p. 7. (See Sec. II, pp. 309-319, below.)

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[1] The documents prepared and distributed by the Registry for information purposes are dealt with in Chapter V, above: see p. 150.

[2] See Chap. V, p. 156, above.

(b) *Pleadings, Oral Arguments, Documents*

Volumes in this series are published after the termination of each case and contain the documentation relating to the case in the original language, that is, in English or in French.

This comprises the document instituting proceedings[1], the written pleadings and their annexes[2], the verbatim record of the oral proceedings[3], any documents submitted to the Court after the closure of the written proceedings, and the correspondence. The Court however decided in 1967 that the annexes to the pleadings would no longer be printed in cases which had been removed from the General List either because the application instituting proceedings disclosed that the other side had not accepted the jurisdiction of the Court or because there had been a settlement or a discontinuance of the case.

Depending upon the length of the documents to be printed, one or more volumes are issued for each case. Thus far 129 volumes have been published. The volumes which appeared up to 31 December 1964 are sold in hard covers whereas subsequent volumes are in paper covers.

Abbreviated reference: *I.C.J. Pleadings*, with the short title of the case, e.g.: *I.C.J. Pleadings, Nottebohm*, Vol. I. (See Sec. III, pp. 324-330, below.)

(c) *Acts and Documents concerning the Organization of the Court*

Five volumes have appeared in this bilingual (English/French) series.

No. 1 is now out of print.

No. 2 contained, in paper covers, the text of the Rules of Court as amended in 1972.

No. 3 contained the texts of the Charter of the United Nations, the Statute and Rules of Court and the Resolution concerning the Internal Judicial Practice of the Court, together with certain documents relating to the Court's privileges and immunities. It was published in 1977, in paper covers.

No. 4 contained the same documents as *No. 3* but with the text of the 1978 revised Rules of Court replacing that of the 1972 amended Rules; it further included certain resolutions concerning States entitled to appear before the Court. It was published in July 1978, in paper covers.

No. 5 contains the same documents as *No. 4*, with some corrections and an additional resolution concerning a State entitled to appear before the Court. It was published in July 1990, the stock of *No. 4* having been exhausted, and is available in paper covers.

Abbreviated reference: *I.C.J. Acts and Documents*, with an indication of the number of the volume.

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[1] See Chap. V, pp. 152 and 160, above.

[2] *Ibid.*, pp. 153-154, above.

[3] *Ibid.*, pp. 154-155, above.

(d) *Yearbook*

Each year there appears a *Yearbook* in which an account is given of the work of the Court during the period from 1 August of the preceding year to 31 July of the current year. There is also a French edition of this publication, the *Annuaire*.

The present *Yearbook* is the fifty-second in the series, which started with *I.C.J. Yearbook 1946-1947*. Like the 33 preceding issues, it is sold in paper covers whereas the first 18 volumes were sold in hard covers.

Abbreviated reference: *I.C.J. Yearbook*, with an indication of the year covered by the volume, e.g.: *I.C.J. Yearbook 1954-1955*.

(e) *Bibliography of the International Court of Justice*

Early each year the Registry issues a *Bibliography* listing such works and documents relating to the Court as have come to its attention during the previous year.

Bibliographies Nos. 1-18 formed Chapter IX in the appropriate *Yearbook* or *Annuaire* up to the 1963-1964 editions. Beginning with No. 19, later *Bibliographies* were issued as separate fascicles with introduction and index in both English and French, but arranged so as to facilitate the binding of several numbers together. The latest *I.C.J. Bibliography* published is No. 49 (year 1995).

Abbreviated reference: *I.C.J. Bibliography*, with the serial number of the volume, followed, if desired, by the entry number of the work cited. E.g.: *I.C.J. Bibliography No. 7:* 2528 for the *Bibliographies* prior to No. 35, and *I.C.J. Bibliography No. 35:* 81: 150 as from 1981.

2. *Dissemination of the Publications of the International Court of Justice*

The publications of the Court are distributed free on request and as required to the governments or public services of all States entitled to appear before the Court.

They may be consulted in major law libraries, including many university libraries, certain depository libraries for United Nations publications, and libraries aided by the United Nations programme of assistance in the teaching, study, dissemination and wider appreciation of international law.

They are sold by the Sales and Marketing Sections of the United Nations Secretariat:

United Nations, Room DC2-853, 2 United Nations Plaza,
New York, NY 10017, United States of America.
Tel.: 1-212-963 8302; Fax: 1-212-963 3489
E-mail: publications@un.org

or

United Nations, Room C-116, Palais des Nations,
8-14 avenue de la Paix, 1211 Geneva 10, Switzerland.
Tel.: 41-22-917 2614; Fax: 41-22-917 0027
E-mail: unpubli@unog.ch

They may also be obtained from any bookseller selling United Nations publications. *Orders and requests for information should be sent to these addresses and not to the Registry.*

A *Catalogue* is issued in English and French. It lists the sales number of each publication and its price in US dollars. It is brought up to date each year, by means either of an addendum or of a new edition. A free copy of the *Catalogue* may be obtained by applying to one of the Sales Sections of the United Nations or to the Registry.

3. Publications of the Permanent Court of International Justice

Between 1922 and 1946 the *Permanent Court of International Justice* published the following series:

Series A (Nos. 1-24): *Collection of Judgments* (up to and including 1930)
Series B (Nos. 1-18): *Collection of Advisory Opinions* (up to and including 1930)
Series A/B (Nos. 40-80): *Judgments, Orders and Advisory Opinions* (beginning in 1931)
Series C (Nos. 1-19): *Acts and Documents relating to Judgments and Advisory Opinions given by the Court* (up to and including 1930)
Series C (Nos. 52-88): *Pleadings, Oral Statements and Documents* (beginning in 1931)
Series D (Nos. 1-6): *Acts and Documents concerning the Organization of the Court*
Series E (Nos. 1-16): *Annual Reports*
Series F (Nos. 1-4): *General Indexes*

They may be consulted in certain university and other libraries with a substantial legal section.

They can also be obtained from Kraus Reprint Company, Kraus Organization Limited, Route 100, Millwood, NY 10546, USA, to whom all orders and requests for information should be addressed.

II. OFFICIAL CITATION OF JUDGMENTS, ADVISORY OPINIONS AND ORDERS

In order to standardize the mode of citation of the decisions of the International Court of Justice and the *Permanent Court of International Justice*, the Court decided to use the titles below, which are listed in chronological order. Orders solely fixing or extending time-limits are omitted.

1. Permanent Court of International Justice

1922

Designation of the Workers' Delegate for the Netherlands at the Third Session of the International Labour Conference, Advisory Opinion, 1922, P.C.I.J., Series B, No. 1.

Competence of the ILO in Regard to International Regulation of the Conditions of Labour of Persons Employed in Agriculture, Advisory Opinion, 1922, P.C.I.J., Series B, No. 2.

Competence of the ILO to Examine Proposals for the Organization and Development of the Methods of Agricultural Production, Advisory Opinion, 1922, P.C.I.J., Series B, No. 3.

1923

Nationality Decrees Issued in Tunis and Morocco, Advisory Opinion, 1923, P.C.I.J., Series B, No. 4.

Status of Eastern Carelia, Advisory Opinion, 1923, P.C.I.J., Series B, No. 5.

S.S. "Wimbledon", Judgments, 1923, P.C.I.J., Series A, No. 1.

German Settlers in Poland, Advisory Opinion, 1923, P.C.I.J., Series B, No. 6.

Acquisition of Polish Nationality, Advisory Opinion, 1923, P.C.I.J., Series B, No. 7.

Jaworzina, Advisory Opinion, 1923, P.C.I.J., Series B, No. 8.

1924

Mavrommatis Palestine Concessions, Judgment No. 2, 1924, P.C.I.J., Series A, No. 2.

Monastery of Saint-Naoum, Advisory Opinion, 1924, P.C.I.J., Series B, No. 9.

Treaty of Neuilly, Article 179, Annex, Paragraph 4 (Interpretation), Judgment No. 3, 1924, P.C.I.J., Series A, No. 3.

1925

Exchange of Greek and Turkish Populations, Advisory Opinion, 1925, P.C.I.J., Series B, No. 10.

Interpretation of Judgment No. 3, Judgment No. 4, 1925, P.C.I.J., Series A, No. 4.

Mavrommatis Jerusalem Concessions, Judgment No. 5, 1925, P.C.I.J., Series A, No. 5.

Polish Postal Service in Danzig, Advisory Opinion, 1925, P.C.I.J., Series B, No. 11.

Certain German Interests in Polish Upper Silesia, Jurisdiction, Judgment No. 6, 1925, P.C.I.J., Series A, No. 6.

Interpretation of Article 3, Paragraph 2, of the Treaty of Lausanne, Advisory Opinion, 1925, P.C.I.J., Series B, No. 12.

1926

Certain German Interests in Polish Upper Silesia, Merits, Judgment No. 7, 1926, P.C.I.J., Series A, No. 7.

Competence of the ILO to Regulate Incidentally the Personal Work of the Employer, Advisory Opinion, 1926, P.C.I.J., Series B, No. 13.

1927

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Orders of 8 January, 15 February and 18 June 1927, P.C.I.J., Series A, No. 8.

Factory at Chorzów, Jurisdiction, Judgment No. 8, 1927, P.C.I.J., Series A, No. 9.

"Lotus", Judgment No. 9, 1927, P.C.I.J., Series A, No. 10.

Readaptation of the Mavrommatis Jerusalem Concessions, Judgment No. 10, 1927, P.C.I.J., Series A, No. 11.

Factory at Chorzów, Order of 21 November 1927, P.C.I.J., Series A, No. 12.

Jurisdiction of the European Commission of the Danube, Advisory Opinion, 1927, P.C.I.J., Series B, No. 14.

Interpretation of Judgments Nos. 7 and 8 (Factory at Chorzów), Judgment No. 11, 1927, P.C.I.J., Series A, No. 13.

1928

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 21 February 1928, P.C.I.J., Series A, No. 14.

Jurisdiction of the Courts of Danzig, Advisory Opinion, 1928, P.C.I.J., Series B, No. 15.

Rights of Minorities in Upper Silesia (Minority Schools), Judgment No. 12, 1928, P.C.I.J., Series A, No. 15.

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 13 August 1928, P.C.I.J., Series A, No. 16.

Interpretation of the Greco-Turkish Agreement of 1 December 1926 (Final Protocol, Article IV), Advisory Opinion, 1928, P.C.I.J., Series B, No. 16.

Factory at Chorzów, Merits, Judgment No. 13, 1928, P.C.I.J., Series A, No. 17.

1929

Denunciation of the Treaty of 2 November 1865 between China and Belgium, Order of 25 May 1929, P.C.I.J., Series A, No. 18.

Factory at Chorzów, Order of 25 May 1929, P.C.I.J., Series A, No. 19.

Serbian Loans, Judgment No. 14, 1929, P.C.I.J., Series A, No. 20.

Brazilian Loans, Judgment No. 15, 1929, P.C.I.J., Series A, No. 21.

Free Zones of Upper Savoy and the District of Gex, Order of 19 August 1929, P.C.I.J., Series A, No. 22.

Territorial Jurisdiction of the International Commission of the River Oder, Judgment No. 16, 1929, P.C.I.J., Series A, No. 23.

1930

Greco-Bulgarian "Communities", Advisory Opinion, 1930, P.C.I.J., Series B, No. 17.

Free City of Danzig and ILO, Advisory Opinion, 1930, P.C.I.J., Series B, No. 18.

Free Zones of Upper Savoy and the District of Gex, Order of 6 December 1930, P.C.I.J., Series A, No. 24.

1931

Access to German Minority Schools in Upper Silesia, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 40, p. 4.

Customs Régime between Germany and Austria, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 41, p. 37.

Railway Traffic between Lithuania and Poland, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 42, p. 108.

Access to, or Anchorage in, the Port of Danzig, of Polish War Vessels, Advisory Opinion, 1931, P.C.I.J., Series A/B, No. 43, p. 128.

1932

Treatment of Polish Nationals and Other Persons of Polish Origin or Speech in the Danzig Territory, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 44, p. 4.

Interpretation of the Greco-Bulgarian Agreement of 9 December 1927, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 45, p. 68.

Free Zones of Upper Savoy and the District of Gex, Judgment, 1932, P.C.I.J., Series A/B, No. 46, p. 96.

Interpretation of the Statute of the Memel Territory, Preliminary Objection, Judgment, 1932, P.C.I.J., Series A/B, No. 47, p. 243.

Legal Status of the South-Eastern Territory of Greenland, Orders of 2 and 3 August 1932, P.C.I.J., Series A/B, No. 48, p. 268.

Interpretation of the Statute of the Memel Territory, Merits, Judgment, 1932, P.C.I.J., Series A/B, No. 49, p. 294.

Interpretation of the Convention of 1919 concerning Employment of Women during the Night, Advisory Opinion, 1932, P.C.I.J., Series A/B, No. 50, p. 365.

1933

Delimitation of the Territorial Waters between the Island of Castellorizo and the Coasts of Anatolia, Order of 26 January 1933, P.C.I.J., Series A/B, No. 51, p. 4.

Prince von Pless Administration, Order of 4 February 1933, P.C.I.J., Series A/B, No. 52, p. 11.

Legal Status of Eastern Greenland, Judgment, 1933, P.C.I.J., Series A/B, No. 53, p. 22.

Prince von Pless Administration, Order of 11 May 1933, P.C.I.J., Series A/B, No. 54, p. 150.

Legal Status of the South-Eastern Territory of Greenland, Order of 11 May 1933, P.C.I.J., Series A/B, No. 55, p. 157.

Appeals from Certain Judgments of the Hungaro/Czechoslovak Mixed Arbitral Tribunal, Order of 12 May 1933, P.C.I.J., Series A/B, No. 56, p. 162.

Prince von Pless Administration, Order of 4 July 1933, P.C.I.J., Series A/B, No. 57, p. 167.

Polish Agrarian Reform and German Minority, Order of 29 July 1933, P.C.I.J., Series A/B, No. 58, p. 175.

Prince von Pless Administration, Order of 2 December 1933, P.C.I.J., Series A/B, No. 59, p. 194.

Polish Agrarian Reform and German Minority, Order of 2 December 1933, P.C.I.J., Series A/B, No. 60, p. 201.

Appeal from a Judgment of the Hungaro/Czechoslovak Mixed Arbitral Tribunal (The Peter Pázmány University), Judgment, 1933, P.C.I.J., Series A/B, No. 61, p. 208.

1934

Lighthouses case between France and Greece, Judgment, 1934, P.C.I.J., Series A/B, No. 62, p. 4.

Oscar Chinn, Judgment, 1934, P.C.I.J., Series A/B, No. 63, p. 65.

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III. ABBREVIATED REFERENCES TO PLEADINGS, ORAL ARGUMENTS, DOCUMENTS

In order to standardize the abbreviated references to the *Pleadings, Oral Arguments, Documents* series of the International Court of Justice and the corresponding volumes *(Series C)* of the *Permanent Court of International Justice*, the Court decided to use the titles below, which are given in chronological order based on the date of entry of the case in the General List.

For the convenience of the reader, the names of the Parties in contentious cases (separated by a stroke if proceedings were instituted by means of a special agreement), or the name of the body which requested the advisory opinion, have been added in small type to the abbreviated references.

An asterisk indicates that a case was removed from the list before a final judgment or an advisory opinion was given, or if it failed for some other reason to reach its normal conclusion.

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UN General Assembly

CHAPTER VIII

FINANCES OF THE COURT

I. FINANCIAL REGULATIONS

In regard to financial matters, the International Court of Justice applies Articles 32, 33, 35 and 64 of the Statute of the Court, Article 26, paragraph 1 *(j)*, of the Rules of Court, the Staff Regulations for the Registry and the relevant resolutions of the General Assembly of the United Nations.

1. General Regulations

(a) *Method of covering expenditure*

Article 33 of the Statute of the Court provides: "The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly." As the budget of the Court has consequently been incorporated in the budget of the United Nations, member States participate in the expenses of both in the same proportion, in accordance with the scale of assessments determined by the General Assembly.

States which are not members of the United Nations but which are parties to the Statute pay, in accordance with the undertaking into which they entered when they became parties to the Statute (see Chap. III, pp. 67-68, above), a contribution the amount of which is fixed from time to time by the General Assembly in consultation with them. By its resolution 49/19 of 23 December 1994, the General Assembly decided that these States should contribute to the expenses of the Court for the years 1995, 1996 and 1997 in the following proportions: Nauru 0.01%; Switzerland 1.21%. By resolution 52/215, of 22 December 1997, it fixed for the years 1998, 1999 and 2000 the following proportions: Nauru 0.01%; Switzerland 1.215%.

If a State which is not a party to the Statute but to which the Court is open is a party to a case, the Court will fix the amount which that party is to contribute towards the expenses of the Court (Statute, Art. 35, para. 3). Payment is then made by the State concerned to the account of the United Nations in New York.

The contributions of States which are not members of the United Nations are taken into account as miscellaneous income received by the Organization.

Under an established rule, sums derived from staff assessment, sales of publications (dealt with by the Sales Sections of the Secretariat – see

Chap. VII, p. 303, above), bank interest, etc., are also recorded as United Nations income.

(b) *Drafting of the budget*

In accordance with the Instructions for the Registry (Arts. 26-30), a preliminary draft budget is prepared by the Registrar. If the Court is sitting, this preliminary draft is submitted for the consideration of the Budgetary and Administrative Committee of the Court and then, for approval, to the Court itself. If the Court is not sitting, approval must be given by the President.

When it has been approved, the draft budget is forwarded to the Secretariat of the United Nations for incorporation in the draft budget of the United Nations. It is then examined by the United Nations Advisory Committee on Administrative and Budgetary Questions and is afterwards submitted to the Fifth Committee of the General Assembly. It is finally adopted by the General Assembly in plenary meeting, within the framework of the resolutions concerning the budget of the United Nations and its unforeseen and extraordinary expenses.

Since 1974 the budget has been presented biennially.

(c) *Financing of appropriations and accounts*

The Registrar is responsible for executing the budget, with the assistance of the Accountant/Establishment Officer. He has to ensure that proper use is made of the funds voted and must see that no expenses are incurred that are not provided for in the budget (Instructions for the Registry, Art. 31). He alone is entitled to incur liabilities in the name of the Court, subject to any possible delegations of authority (Instructions for the Registry, Art. 35).

The accounts of the Court are audited every year by the auditors of the Secretariat of the United Nations and by the Board of Auditors appointed by the General Assembly. At the end of each biennium, the closed accounts are forwarded to the Secretariat of the United Nations (Instructions for the Registry, Art. 34).

2. *Salaries and Expenses of Judges*

(a) *Emoluments*

By virtue of Article 32, paragraph 5, of the Statute, the salaries, allowances and compensation paid to the judges are fixed by the General Assembly. In this connection, the General Assembly adopted resolution 19 (I) of 6 February 1946, resolution 85 (I) of 11 December 1946, resolution 474 (V) of 15 December 1950, resolution 1738 (XVI) of 20 December 1961, resolution 2366 (XXII) of 19 December 1967, resolution 2890 B (XXVI) of 22 December 1971, resolution 3193 B (XXVIII) of 18 December 1973, resolution 3537 B (XXX) of 17 December 1975, resolution 31/204 of 22 December 1976, resolution 35/220 A of 17 December 1980, resolution 40/257 of 18 December 1985, resolution 43/217 of 21 December 1988, resolution 45/250 of 21 December 1990, resolution 48/252 of 26 May 1994 and resolution 50/216 of 23 December 1995.

The emoluments of Members of the Court are made up of an annual salary which may not be decreased during the period of office (Statute of the Court, Art. 32, paras. 1 and 5). With effect from 1 January 1991, the General Assembly (resolution 45/250) has fixed the emoluments of Members of the Court at US$145,000. The General Assembly further decided that the emoluments and other conditions of service shall be reviewed every three years with the next review at its fifty-third session.

Under Article 32, paragraphs 2 and 3, of the Statute, the President of the Court and the Vice-President (for every day on which he acts as President) receive special allowances in addition, at a rate fixed by resolution 40/257 of 18 December 1985.

Finally, under Article 32, paragraph 4, of the Statute and General Assembly resolution 19 (I) of 6 February 1946, judges *ad hoc* chosen to sit in certain cases under Article 31 of the Statute receive daily fees. With effect from 1 January 1991, the daily fee of *ad hoc* judges has been fixed at US$397, being 1/365th of US$145,000.

The emoluments of the judges are thus as set out on the following scale:

	US$
President:	
Annual salary	145,000
Special allowance	15,000
Vice-President:	
Annual salary	145,000
Allowance equivalent to US$94 for every day on which he acts as President, up to an annual maximum of	9,400
Other Members:	
Annual salary	145,000
Judges ad hoc:	
Fee of US$397 for each day on which they exercise their functions.	

(b) *Pensions*

Article 32, paragraph 7, of the Statute provides: "Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to Members of the Court." The General Assembly adopted the Pension Scheme Regulations for Members of the International Court of Justice which appear as an annex to resolution 86 (I) of 11 December 1946. Amendments to these regulations were made by resolution 1408 (XIV) of 1 December 1959. The General Assembly adopted new regulations by its resolution 1562 (XV) of 18 December 1960. Some provisions of the regulations were modified by resolution 1925 (XVIII) of 11 December 1963, resolution 2367 (XXII) of 19 December 1967, resolution 2890 A (XXVI) of 22 December 1971, resolution 3193 A

(XXVIII) of 18 December 1973, resolution 3537 A (XXX) of 17 December 1975, resolution 35/220 B of 17 December 1980. The General Assembly effected further modifications by resolution 38/239 of 20 December 1983, resolution 40/257 of 18 December 1985 and resolution 45/250 of 21 December 1990.

According to the regulations which came into operation on 1 January 1984, any Member of the Court who has ceased to hold office and who has reached the age of 60 years is entitled, if he has completed at least three years of service, to a retirement pension during the remainder of his life.

With effect from 1 January 1991 (resolution 45/250), if a Member of the Court has served a full term of nine years, the amount of the annual pension is US$50,000. If he has served for more than nine years, the amount of the pension is increased up to a maximum of US$75,000. It is reduced if he has served for less than nine years.

Furthermore, a Member of the Court who ceases to hold office before the age of 60 and who would be entitled to a retirement pension when he reached that age, may elect to receive a pension from any date after the date on which he ceases to hold office. The amount of such pension would be that amount which has the same actuarial value as the pension which would have been paid to him at the age of 60.

Provision is made also for disability pensions and pensions for widows and children.

By its resolution 31/204 of 22 December 1976, the General Assembly decided that the retirement pensions given to Members of the Court should be reviewed concurrently with the periodic revision of their annual salary.

(c) *Conditions of service*

In Section C of resolution 40/257 of 18 December 1985, the General Assembly laid down certain conditions of service applicable to Members of the Court. The text of the relevant portion of this resolution is as follows:

> "*The General Assembly*,
>
> *Recalling* its resolutions 37/237, section XIV, of 21 December 1982, 38/234, section XVII, of 20 December 1983, and 39/236, section V, of 18 December 1984, on conditions of service and compensation for officials other than Secretariat officials,
>
> *Having considered* the report of the Secretary-General and the related report of the Advisory Committee on Administrative and Budgetary Questions,
>
> 1. *Decides* that, with effect from 1 January 1986, the President and members of the Court who have taken up primary residence in The Hague, shall be reimbursed, up to a ceiling of $4,500, for the actual cost of educating their children in respect of each child each year up to the award of the first recognized degree and that provision shall

be made for one related travel per year in respect of each child from the place of scholastic attendance, when outside the Netherlands, to The Hague;

2. *Decides* that, with effect from 1 January 1986, those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for at least five continuous years during service with the Court, shall be eligible to receive a lump sum equivalent to eighteen weeks of annual net base salary upon completion of their appointment and resettlement outside the Netherlands, and that those members of the Court, who have taken up and maintained a *bona fide* primary residence at The Hague for nine continuous years or more during service with the Court, shall receive the equivalent of twenty-four weeks of annual net base salary upon completion of service and relocation outside the Netherlands;

3. *Decides* that, with effect from 1 January 1986, in the event of the death of a member of the Court during his service, compensation shall be provided to the survivors in the form of a lump-sum payment equivalent to one month of base salary per year of service, subject to a minimum of three months and a maximum of nine months."

With effect from 1 January 1995, the ceiling for reimbursement for the actual cost of education, referred to in paragraph 1 of the above resolution, was fixed at US$12,675.

(d) *Travelling expenses*

By virtue of Article 32, paragraph 7, of the Statute, regulations made by the General Assembly fix the conditions under which Members of the Court have their travelling expenses refunded. The General Assembly adopted the Travel and Subsistence Regulations of the International Court of Justice which appear in the annex to resolution 85 (I) of 11 December 1946. On 21 December 1982, by resolution 37/240, it adopted new Travel and Subsistence Regulations of the International Court of Justice (set out in *I.C.J. Yearbook 1982-1983*, pp. 164-167).

3. Salaries, Allowances and Expenses of the Registrar and Officials of the Registry

(a) *Emoluments*

By virtue of Article 32, paragraph 6, of the Statute, the salary of the Registrar is fixed by the General Assembly on the proposal of the Court. By resolution 85 (I) of 11 December 1946 confirmed by resolution 474 (V) of 15 December 1950, the General Assembly decided that "the annual salary of the Registrar of the International Court of Justice shall be assimilated to that of a top-ranking director of the Secretariat of the United Nations". In the existing structure, the Registrar has the rank of an Assistant Secretary-General and the Deputy-Registrar that of a Director.

Officials of the Registry in the professional category, both permanent and temporary, receive the same salary and the same allowances as officials of the United Nations belonging to the same category.

For the purposes of the schedule of post adjustments applicable to the permanent staff of the professional category, The Hague was in Class 4/4.0 as from 1 July 1998. For temporary staff of the professional category, the subsistence allowance is fixed at 374 guilders a day.

Salaries and allowances of permanent and temporary staff members in the general service category are based on the best prevailing local rates.

The figures given in the budget estimates and accounts in respect of salaries are net figures, after deduction of staff assessment.

(b) *Pensions*

By virtue of Article 12 of the Staff Regulations for the Registry, the Registrar and the officials of the Registry are participants in the United Nations Joint Staff Pension Fund. They participate on the same conditions as all other officials of the United Nations.

(c) *Travelling expenses*

Under Article 5 of the regulations concerning the travel and subsistence allowances of the Members of the International Court of Justice, dated 21 December 1982 (*I.C.J. Yearbook 1982-1983*, p. 167), the travel and subsistence provisions applicable to the Registrar of the Court are as set out in the Staff Regulations of the United Nations for officials of comparable rank, subject to any exceptions authorized by the President of the Court.

The travelling expenses of officials of the Registry are paid under conditions similar to those applied in the Secretariat of the United Nations (Staff Regulations for the Registry, Art. 12).

4. *Common Services*

The common services of the Court and of the Registry and the capital expenditure of the Court come under special items in the budget.

In particular, the Court pays to the Carnegie Foundation an annual contribution for the premises it occupies at the Peace Palace and in the new wing (see Chap. V, p. 143, above). The amount of the contribution was first fixed by the General Assembly in resolution 84 (I) of 11 December 1946 and has subsequently undergone successive alterations. It was increased to 1,843,582 guilders as from 1 January 1997 and to 1,889,672 as from 1 January 1998.

II. Budget for the Biennium 1998-1999

1. Ordinary Expenses

The Budget of the Court for the biennium 1998-1999, which forms Part III, Section 5, of the Budget of the United Nations, was adopted by the General Assembly on 22 December 1997 (resolution 52/221).

	US$	US$
PROGRAMME UN-N-08-181. MEMBERS OF THE COURT		
Salaries and allowances	4,398,800	
Pensions	2,020,000	
Travelling expenses	496,700	
Education grants	95,900	
		7,011,400
PROGRAMME UN-N-08-182. THE REGISTRY		
Salaries – established posts	5,346,400	
Salaries – temporary posts	204,600	
Common staff costs	1,855,200	
Salaries and travel costs of temporary assistance	1,653,300	
Consultants	42,600	
Travelling on official business	45,900	
Overtime	73,400	
Representation allowance	7,200	
Hospitality	14,800	
		9,243,400
PROGRAMME UN-N-08-800. COMMON SERVICES		
Contribution to the Carnegie Foundation	2,284,600	
General operating expenses	441,500	
Contractual printing	525,100	
Contracts – external translation	215,100	
Data processing services	77,400	
Supplies and materials	173,200	
Library	107,900	
Furniture and equipment	60,600	
Miscellaneous expenses	23,200	
Acquisition/replacement office automation equipment	248,500	
Court vehicles	67,400	
		4,224,500
		20,479,300

2. Unforeseen and Extraordinary Expenses

On 22 December 1997 the General Assembly, in accordance with previous practice, adopted resolution 52/223, containing the following provisions:

"*The General Assembly*

1. *Authorizes* the Secretary-General, with the prior concurrence of the Advisory Committee on Administrative and Budgetary Questions and subject to the Financial Regulations of the United Nations and the provisions of paragraph 3 below, to enter into commitments in the biennium 1998-1999 to meet unforeseen and extraordinary

expenses arising either during or subsequent to that biennium, provided that the concurrence of the Advisory Committee shall not be necessary for:

. . . .

(b) Such commitments as the President of the International Court of Justice certifies relate to expenses occasioned by:

(i) The designation of *ad hoc* judges (Statute of the International Court of Justice, Article 31), not exceeding a total of $300,000;

(ii) The appointment of assessors (Statute, Article 30), or the calling of witnesses and the appointment of experts (Statute, Article 50), not exceeding a total of $50,000;

(iii) The maintenance in office for completion of the cases of judges who have not been re-elected (Statute, Article 13, paragraph 3), not exceeding a total of $40,000;

(iv) The payment of pensions and travel and removal expenses of retiring judges, and travel and removal expenses and installation grant of members of the Court (Statute, Article 32, paragraph 7) not exceeding a total of $180,000;

(v) The holding of sessions of the Court away from The Hague (Statute, Article 22), not exceeding a total of $50,000."

III. Accounts for the Biennium 1996-1997

1. Budget Accounts

The Court's accounts are presented in the *I.C.J. Yearbook* in relation to the biennial period concerned and not on the basis of the single financial year.

The table on page 339 gives a summary of the budget accounts for the biennium 1996-1997.

2. Audit of Accounts

The accounts were audited by the competent authorities from 29 September to 8 October 1997 and from 25 February to 6 March 1998.

BUDGET ACCOUNTS FOR THE BIENNIUM 1996-1997

	Appropriation after modifications and transfers US$		*Expenditure* US$	
PROGRAMME UN-N-08-181. MEMBERS OF THE COURT				
Salaries and allowances	4,380,100		4,388,727	
Pensions	1,983,200		1,983,874	
Travelling expenses	384,500		380,346	
Education grants	94,300	6,842,100	93,792	6,846,739
PROGRAMME UN-N-08-182. THE REGISTRY				
Salaries — established posts	5,625,600		5,617,491	
Salaries — temporary posts	222,600		222,223	
Common staff costs	2,044,000		2,048,330	
Salaries and travel costs of temporary assistance	1,705,400		1,773,078	
Consultants	15,200		13,369	
Travelling on official business	46,900		47,988	
Overtime	77,300		76,243	
Representation allowance	7,200		7,200	
Hospitality	18,700	9,762,900	17,706	9,823,628
PROGRAMME UN-N-08-800. COMMON SERVICES				
Contribution to the Carnegie Foundation	1,597,900		1,591,831	
General operating expenses	478,900		474,824	
Contractual printing	248,400		268,687	
Contracts — external translation	111,700		166,686	
Data processing services	11,700		25,441	
Supplies and materials	194,200		200,726	
Library	113,700		116,265	
Furniture and equipment	154,400		203,820	
Miscellaneous expenses	34,500		33,305	
Acquisition/replacement office automation equipment	170,100	3,115,500	159,012	3,240,597
		19,720,500		19,910,964

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